# LAWS, RESOLUTIONS AND MEMORIALS

OF THE

# Territory of Montana,

PASSED AT THE

## SIXTEENTH REGULAR SESSION

OF THE

# LEGISLATIVE ASSEMBLY,

Held at Helena, the seat of government of said Territory, commencing January 14th, A. D. 1889, and ending March 14th, A. D. 1889.

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES OF AMERICA, SECTIONS OF THE REVISED STATUTES OF THE UNITED STATES CONTAINING PROVISIONS COMMON TO ALL TERRITORIES, SECTIONS OF THE STATUTES OF THE UNITED STATES RELATING TO THE TERRITORY OF MONTANA.

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PUBLISHED BY AUTHORITY OF THE UNITED STATES.

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1889.

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# CERTIFICATE OF AUTHENTIFICATION.

TERRITORY OF MONTANA, }
SECRETARY'S OFFICE. } ss.

I, L. A. WALKER, Secretary of the Territory of Montana, do hereby certify that the printed Laws, Resolutions and Memorials contained herein, are true and correct copies of all the enrolled Laws, Resolutions and Memorials that were passed at the Sixteenth Regular Session of the Legislative Assembly of said Territory, begun January 14th, A. D. 1889, and ending March 14th, A. D. 1889, and held at Helena, the seat of government of said Territory, with the exception of corrections in orthography and punctuation, and omissions or substitute words inserted in brackets.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of said Territory. Done at Helena, the seat of government of the Territory of Montana, this 11th day of June, A. D. 1889.

L. A. Walker

*Secretary of Montana Territory.*

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GOVERNOR ..... PRESTON H. LESLIE

## MEMBERS OF THE SIXTEENTH LEGISLATIVE ASSEMBLY.

### COUNCIL.

| Names of Members. | Counties Represented. | Postoffices. |
|---|---|---|
| Cole, C. K. President | Lewis and Clarke | Helena |
| Brown, Lawrence A | Beaverhead | Dillon |
| Bickford, Walter M | Missoula | Missoula |
| Conrad, W. A | Dawson and Yellowstone | Billings |
| Collins, Jerry | Choteau and Cascade | Great Falls |
| Hoffman, C. W | Gallatin and Meagher | Bozeman |
| Hatch, George M | Fergus and Park | Big Timber |
| Kennedy, Will | Jefferson | Boulder |
| Middleton, C. R | Custer | Miles City |
| Olds, L. B | Madison | Virginia City |
| Thompson, William M | Deer Lodge | Deer Lodge |
| Thompson, William | Silver Bow | Butte |

### SUBORDINATE OFFICERS.

| | |
|---|---|
| Jno. R. Eardley | Chief Clerk |
| Fred. Gilbert | Enr. and Eng. Clerk |
| L. F. Wyman | Sergt. at Arms |
| Rev. F. T. Webb | Chaplain |
| Geo. W. Scott | Watchman |
| Eugene S. Dickerson | Messenger |

### HOUSE OF REPRESENTATIVES.

| Nam s of Members. | Counties Represented. | Postoffices. |
|---|---|---|
| Mantle, Lee, Speaker | Silver Bow | Butte |
| Blakely, C. P | Gallatin | Bozeman |
| Carver, Geo. H | Park | Livingston |
| Comfort, J. R | Madison | Twin Bridges |
| Congdon, E | Silver Bow | Butte |
| Davis, Joseph | Lewis and Clarke | Helena |
| Flowers, W D | Gallatin | Moreland |
| Garrett, E. C | Choteau and Cascade | Choteau |
| Gillett, Warren C | Lewis and Clarke | Helena |
| Haskell, Henri J | Dawson | Glendive |
| Hunt, Wm. H | Lewis and Clarke and Jefferson | Helena |
| Johnson, E. H | Custer | Miles City |
| Jones, G. T | Missoula | Corvallis |
| Joslyn, C D | Deer Lodge | Deer Lodge |
| Moore, Clinton H | Deer Lodge | Pyrenees |
| Murray, S. G | Missoula, | Missoula |
| Pickman, H. D | Beaverhead | Dillon |
| Rea, Loring B | Custer | Miles City |
| Roberts, W. H | Silver Bow | Butte |
| Saxton, J. E. | Meagher | White Sulphur Springs |
| Swiggett, S. A | Jefferson | Wickes |
| Waite, J. D | Fergus | Utica |
| Whitney, F. S | Yellowstone | Junction |
| Willis, Ozias | Beaverhead and Madison | Willis |

### SUBORDINATE OFFICERS.

| | |
|---|---|
| Benj. Webster | Chief Clerk |
| H. D. Arkwright | Enr. and Eng. Clerk |
| O. Lund | Sergt. at Arms |
| Rev. C. B. Allen, Jr | Chaplain |
| A. B. Davis | Watchman |
| D. F. Merriman | Messenger |

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# CONSTITUTION

OF THE

# UNITED STATES OF AMERICA.

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We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and to our posterity, do ordain and establish this Constitution for the United States of America.

## ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and a house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled

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to choose three, *Massachusetts* eight, *Rhode Island* and *Providence plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and and other officers; and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places and manners of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

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The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be the judge of elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by

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two-thirds of that house, it shall be come a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be neccessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. The Congress shall have power—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

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To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasion:

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed upon such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SEC. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligations of contracts, or grant any title of nobility.

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No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:—

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[*The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the person voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority and have an equal number of votes, the house of representatives shall immediately choose by ballot one of them for president. But in choosing the president the vote shall be taken by states, the representation for each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

*Annulled. See 12th Amendment.

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The congress may determine the time of choosing the electors and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation or inability both of the president and vice president, declaring what officer shall then act as president and such officer shall act accordingly until the disability be removed or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath of affirmation:—

"I do solmenly swear (*or affirm*), that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States and of the militia of the several states when called into the actual service of the United States; he may acquire the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint embassadors, other public ministers and consuls, judges of the supreme court and all other officers of the United States whose appointment are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

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The president shall have the power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive embassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SEC. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

## ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting embassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; [*between a state and citizens of another state;] between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting embassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crimes shall have been committed; but when not committed within

*Annulled. See 11th Amendment.

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any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

## ARTICLE IV.

SECTION 1. Full faith and credit shall be given to each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any other state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or any particular state.

SEC. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

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## ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as a part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

## ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states to ratify the same.

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# AMENDMENTS

TO THE

# Constitution of the United States.

ARTICLE I.

Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peacefully to assemble and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

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ARTICLE VI.

In all the criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses againt him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of council for his defence.

ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined by any court of the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments imflicted.

ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state or by citizens or subjects of any foreign state.

ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be

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counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed, and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president the votes shall be taken by states; the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president.

The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist in the United States, or any place subject to to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be appointed among the several states according to their respective numbers, counting the whole number of persons in each state, including Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States,

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representatives in congress the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such state.

SEC. 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of ench house, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. That congress shall have power to enforce, by appropriate legislation, the provisions of this article.

## ARTICLE XV.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

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# THE TERRITORIES.

# Revised Statutes of the United States.

## TITLE XXIII. CHAPTER ONE.

## PROVISIONS COMMON TO ALL THE TERRITORIES.

SECTION 1839. Nothing in this title shall be construed to impair the rights of person or property pertaining to the Indians in any territory so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of such tribe, embraced within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of any territory now or hereafter organized until such tribe signifies its assent to the president to be embraced within a particular territory.

SEC. 1840. Nor shall anything in this title be construed to affect the authority of the United States to make any regulations respecting the Indians of any territory, their lands, property, or rights, by treaty, law, or otherwise, in the same manner as might be made if no temporary government existed, or is hereafter established, in any such territory.

SEC. 1841. The executive power of each territory shall be vested in a governor, who shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president. He shall reside in the territory for which he is appointed, and shall be commander-in-chief of the militia thereof. He may grant pardons and reprieves, and remit fines and forfeitures for offenses against the laws of the territory for which he is

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appointed, and respites for offenses against the laws of the United States, till the decision of the president can be made known thereon. He shall commission all officers who are appointed under the laws of such territory, and shall take care that the laws thereof be faithfully executed.

SEC. 1842. Every bill which has passed the legislative assembly of any territory shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it; but, if not, he shall return it, with his objections, to that house in which it originated, and that house shall enter the objections at large on its journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house agree to pass the bill it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each house. If any bill is not returned by the governor within three days, Sundays excluded, except in Washington and Wyoming, where the term is five days, Sundays excluded, after it has been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly, by adjournment *sine die*, prevent its return, in which case it shall not be a law: *Provided*, that so much of this section as provides for making any bill passed by the legislative assembly of a territory a law without the approval of the governor, shall not apply to the territories of Utah and Arizona.

SEC. 1843. There shall be appointed a secretary for each territory, who shall reside within the territory for which he is appointed, and shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president. In case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall execute all the powers and perform all the duties of governor, during such vacancy or absence, or until another governor is appointed and qualified.

SEC. 1844. The secretary shall record and preserve all the laws and proceedings of the legislative assembly, and all the acts and proceedings of the governor in the executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session thereof, to the president, and two copies of the laws, within like time, to the president of the senate, and to the speaker of the house of representatives, for the use of congress; he shall transmit one copy of the executive proceedings and official correspondence semi-annually, on the first day of January and July of each year, to the president; he shall prepare the acts passed by the legislative assembly for

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publication, and furnish a copy thereof to the public printer of the territory, within ten days after the passage of each act.

SEC. 1846. The legislative power in each territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The members of both branches of the legislative assembly shall have the qualifications of voters as herein prescribed. They shall be chosen for the term of two years, and the sessions of the respective legislative assemblies shall be biennial. Each legislative assembly shall fix by law the day of the commencement of its regular sessions. The members of the council and of the house of representatives shall reside in the district or county for which they are respectively elected.

SEC. 1847. Previous to the first election for members of the legislative assembly of a territory in which congress may hereafter provide a temporary government, the governor shall cause a census of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as he may designate and appoint, and the persons so appointed shall receive a reasonable compensation for their services. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who superintend such elections and the returns thereof, as the governor may direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts is entitled under the act providing such temporary government for the particular territory. The persons having the highest number of legal votes in each of the districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of that house; but in case two or more persons voted for have an equal number of votes, and in case a vacancy otherwise occurs in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor appoints.

SEC. 1848. After such first election, however, the time, place and manner of holding elections by the people in any newly-created territory, as well as of holding all such elections in territories now organized, shall be prescribed by the laws of each territory.

SEC. 1849. The apportionment of representation, which the governor is authorized to make by section eighteen hundred and forty-seven in the case of a territory hereafter erected by congress, shall be as nearly equal as practicable among the several districts and counties for such first election of the council and house of rep-



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resentatives, giving to each section of the territory representation in the ratio of its population, except Indians not taxed; and thereafter in such new territory, as well as in all territories now organized, the legislative assemblies, respectively, may re-adjust and apportion the representation to the two houses thereof, among the several counties and districts, in such manner from time to time, as they deem just and proper; but the number of either house, as authorized by law, shall not be increased.

SEC. 1850. All laws passed by the legislative assembly and governor of any territory except in the territories of Colorado, Dakota, Idaho, Montana and Wyoming, shall be submitted to congress, and, if disapproved, shall be null, and of no effect.

SEC. 1851. The legislative power of every territory shall extend to all rightful subjects of legislation not inconsistent with the constitution and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents.

SEC. 1854. No member of the legislative assembly of any territory now organized shall hold or be appointed to any office which has been created, or the salary or emoluments of which have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to the members of the first legislative assembly in any territory hereafter organized; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of any territory. The exception of postmasters shall not apply in the territory of Washington.

SEC. 1855. No law of any territorial legislature shall be made or enforced by which the governor or secretary of a territory, or the members or officers of any territorial legislature are paid any compensation other than that provided by the laws of the United States.

SEC. 1856. Justices of the peace and all general officers of the militia in the several territories shall be elected by the people in such manner as the respective legislatures may provide by law.

SEC. 1857. All township, district, and county officers, except justices of the peace and general officers of the militia, shall be appointed or elected in such manner as may be provided by the governor and legislative assembly of each territory; and all other officers not herein otherwise provided for, the governor shall nominate, and by and with the advice and consent of the legislative council of each territory, shall appoint; but, in the first instance, where a new territory is hereafter created by congress, the gover-

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nor alone may appoint all the officers referred to in this and the preceding section, and assign them to their respective townships, districts and counties; and the officers so appointed shall hold their offices until the end of the first session of the legislative assembly.

SEC. 1858. In any of the territories, whenever a vacancy happens from resignation or death, during the recess of the legislative council, in any office which, under the organic act of any territory, is to be filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council.

SEC. 1859. Every male citizen above the age of twenty-one, including persons who have legally declared their intention to become citizens in any territory hereafter organized, and who are actual residents of such territory at the time of the organization thereof, shall be entitled to vote at the first election in such territory, and to hold any office therein; subject, nevertheless, to the limitations specified in the next section.

SEC. 1860. At all subsequent elections, however, in any territory hereafter organized by congress, as well as at all elections in territories all ready organized, the qualifications of voters and of holding office shall be such as may be prescribed by the legisiative assembly of each territory; subject, nevertheless, to the following restrictions on the power of the legislative assembly, namely:

First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and by those above that age who have declared on oath before a competent court of record, their intention to become such, and have taken an oath to support the constitution and government of the United States.

Second. There shall be no denial of the elective franchise or of holding office to a citizen on account of race, color, or previous condition of servitude.

Third. No officer, soldier, seaman, mariner, or other person in the army or navy, or attached to troops in the service of the United States, shall be allowed to vote in any territory by reason of being on service therein, unless such territory is and has been for a period of six months his permanent domicile.

Fourth. No person belonging in the army or navy shall be elected to or hold any civil office or appointment in any territory.

SEC. 1862. Every territory shall have the right to send a delegate to the house of representatives of the United States, to serve during each congress, who shall be elected by the voters in the territory qualified to elect members of the legislative assembly thereof. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be

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given accordingly. Every such delegate shall have a seat in the house of representatives, with the right of debating, but not of voting.

SEC. 1863. The first election of a delegate in any territory for which a temporary government is hereafter provided by congress shall be held at the time and places and in the manner the governor of such territory may direct, after at least sixty day's notice, to be given by proclamation; but at all subsequent elections therein, as well as at all elections for a delegate in organized territories, such time, places, and manner of holding the elections shall be prescribed by the law of each territory. [See § 25.]

SEC. 1864. The supreme court of every territory shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and they shall hold their offices for four years, and until their successors are appointed and qualified. They shall hold a term annually at the seat of government of the territory for which they are respectively appointed.

SEC. 1865. Every territory shall be divided into three judicial districts; and a district court shall be held in each district of the territory by one of the justices of the supreme court, at such time and place as may be prescribed by law; and each judge, after assignment shall reside in the district to which he is assigned.

SEC. 1866. The jurisdiction, both appellate and original, of the courts provided for in sections nineteen hundred and seven and nineteen hundred and eight, shall be limited by law.

SEC. 1867. No justices of the peace in any territory shall have jurisdiction of any case, in which the title to land, or the boundary thereof, in any wise comes in question.

SEC. 1868. The supreme court and the district courts respectively, of every territory, shall possess chancery as well as common law jurisdiction.

SEC. 1869. Writs of error, bills of exception and appeals shall be allowed, in all cases, from the final decisions of the district courts to the supreme court of all the territories, respectively, under such regulation as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in that court.

SEC. 1870. The supreme court of each territory shall appoint its own clerk, who shall hold his office at the pleasure of the court for which he is appointed.

SEC. 1871. Each judge of the supreme court of the respective territories shall designate and appoint one person as clerk of the district over which he presides, where one is not already appointed, and shall designate and retain but one such clerk where more than one is already appointed, and only such district clerk shall be entitled to a compensation from the United States.

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SEC. 1872. Every district clerk shall be also the register in chancery, and shall reside and keep his office at the place where the court is held.

SEC. 1873. Temporarily, and until otherwise provided by law, the governor of every territory which may be hereafter established, shall define, by proclamation, the judicial districts of such territory, and assign the judges appointed for such territory to the several districts, as well as fix the times and places for holding courts in the respective counties or subdivisions of each judicial district.

SEC. 1874. The judges of the supreme court of each territory are authorized to hold court within their respective districts, in the counties wherein, by the laws of the territory, courts have been or may be established, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party; but the expense of holding such courts shall be paid by the territory, or by the counties in which the courts are held, and the United States shall in no case be chargeable therewith.

SEC. 1875. There shall be appointed in each territory a person learned in the law to act as attorney for the United States. He shall continue in office for four years, and until his successor is appointed and qualified, unless sooner removed by the president.

SEC. 1876. There shall be appointed a marshal for each territory. He shall execute all process issuing from the territorial courts when exercising their jurisdiction as circuit and district courts of the United States. He shall have the power and perform the duties, and be subject to the regulations and penalties imposed by law on the marshals for the several judicial districts of the United States. He shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the president.

SEC. 1877. The governor, secretary, chief justice and associate justices, attorney and marshal of every territory shall be nominated and, by and with the advice and consent of the senate, appointed by the president.

SEC. 1878. The governor and secretary for each territory shall, before they act as such, respectively take an oath before the district judge, or some justice of the peace in the limits of the territory for which they are appointed, duly authorized to administer oaths by the laws in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States and faithfully to discharge the duties of their respective offices; and such oaths shall be certified by the person before whom the same are taken: and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers appointed for any territory, before they

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act as such, shall take a like oath before the governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, and such oath shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as above directed; but after the first qualification of the officers herein specified in the case of a new territory, as well as in all organized territories, the like oath shall be taken, certified, and recorded in such manner and form as may be prescribed by the law of each territory.

SEC. 1879. The annual salary of the chief justice and associate jsstices of all the territories now organized shall be three thousand dollars each.

SEC. 1880. The salary of the attorney for the United States for each territory shall be at the rate of two hundred and fifty dollars annually.

SEC. 1881. The salary of the marshall of the United States for each territory shall be at the rate of two hundred dollars a year.

SEC. 1882. The salaries provided for in this title, to be paid to the governor, secretary, chief justices, and associate justices, district attorney, and marshall of the several territories, shall be paid quarter-yearly at the treasury of the United States.

SEC. 1883. The fees and costs to be allowed to the United States attorneys and marshals, to the clerks of the supreme and district courts, and to jurors, witnesses, commissoners, and printers in the territories of the United States shall be the same for similar services by such persons as prescribed in chapter 16, title "THE JUDICIARY," and no other compensation shall be taxed or allowed.

SEC. 1884. When any officer of a territory is absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown to the president, who shall officially certify his opinion of such cause to the proper accounting officer of the treasury, to be filed in his office.

SEC. 1885. The legislative assembly of every territory hereafter organized shall hold its first session at such time and place in the territory as the governor thereof shall appoint and direct; and at the first session of the legislative assembly, or as soon thereafter as it may be deemed expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for the territory at such place as they may think proper; but such place shall thereafter be subject to be changed by the governor and legislative assembly.

SEC. 1886. All accounts for disbursements in the territories of the United States, of money, appropriated by congress for the support of government, therein shall be settled and adjusted at the treasury department; and no act, resolution, or order of the legislature of any territory, directing the expenditure of the sum, shall

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be deemed a snfficient authority for such disbursement, but sufficient vouchers and proof for the same shall be required by the accounting officers af the treasury. No payment shall be made or allowed, unless the secretary of the treasury has estimated therefor and the object been approved by congress. No session of the legislature of a territory shall be held until the appropriation for its expenses has been made.

SEC. 1888. No legislative assembly of a territory shall, in any instance or under any pretext, exceed the amount appropriated by congress for its annual expenses.

SEC. 1889. The legislative assemblies of the several territories shall not grant private charters or especial privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, or the construction or operation of railroads, wagon roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable or scientific association.

SEC. 1890. No corporation or association for religious or charitable purposes shall acquire or hold real estate in any territory, during the existence of a territorial government, of a greater value than fifty thousand dollars; and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States; but existing vested rights in real estate shall not be impaired by the provisions of this section.

SEC. 1891. The constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect in all the organized territories, and in every territory hereafter organized, as elsewhere within the United States.

SEC. 1892. Any penitentiary which has been, or may hereafter be, erected by the United States in an organized territory shall, when the same is ready for the reception of convicts, be placed under the care and control of the marshal of the United States for the territory or district in which said penitentiary is situated, except as otherwise provided in the case of the penitentiaries in Montana, Idaho, Wyoming and Colorado.

SEC. 1893. The attorney general of the United States shall prescribe all needful rules and regulations for the government of such penitentiary, and the marshal having charge thereof shall cause them to be duly and faithfully executed and obeyed, and the reasonable compensation of the marshal and of his deputies for their services under such regulations as shall be fixed by the attorney general.

SEC. 1894. The compensation, as well as the expense incident to the subsistence and employment of offenders against the laws of

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the United States, who have been, or may hereafter be, sentenced to imprisonment in such penitentiary, shall be chargeable to and payable out of, the fund for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States; but nothing herein shall be construed to increase the maximum compensation now allowed by law to those officers.

SEC. 1895. Any person convicted by a court of competent jurisdiction in a territory, for a violation of the laws thereof, and sentenced to imprisonment, may, at the cost of such territory, on such terms and conditions as may be prescribed by such rules and regulations, be received, subsisted, and employed in such penitentiary during the term of his imprisonment, in the same manner as if he had been convicted of an offence against the laws of the United States.

CHAP. 818.—An act to prohibit the passage of local or special laws in the Territories of the United States, to limit Territorial indebtedness, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the legislatures of the Territories of the United States now or hereafter to be organized shall not pass local or special laws in any of the following enumerated cases, that is to say,

Granting divorces.

Changing the names of persons or places.

Laying out, opening, altering, and working roads or highways.

Vacating roads, town-plats, streets, alleys and public grounds.

Locating or changing county seats.

Regulating county and township affairs.

Regulating the practice in courts of justice.

Regulating the jurisdiction and duties of justices of the peace, police magistrates and constables.

Providing for changes of venue for civil and criminal cases.

Incorporating cities, towns, or villages, or changing or amending the charter of any town, city, or village.

For the punishment of crimes or misdemeanors.

For the assessment and collection of taxes for territorial, county, township or road purposes.

Summoning and impaneling grand or pettit jurors.

Providing for the management of common schools.

Regulating the rate of interest on money.

The opening and conducting of any election or designating the place of voting.

The sale or mortgage of real estate belonging to minors or others under disability.

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The protection of game or fish.

Chartering or licensing ferries or toll bridges.

Remitting fines, penalties, or forfeitures.

Creating, increasing, or decreasing fees, percentage or allowances of public officers during the term for which said officers are elected or appointed.

Changing the law of descent.

Granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose.

Granting to any corporation, association or individual any sp or exclusive privilege, immunity, or franchise whatever.

In all other cases where a general law can be made applic no special law shall be enacted in any of the territories of the United States by the territorial legislatures thereof.

SEC. 2. That no territory of the United States now or herea - to be organized, or any political or municipal corporation or subdivision of any such territory, shall hereafter make any subscription to the capital stock of any incorporated company, or company or association having corporate powers, or in any manner loan its credit to or use it for the benefit of any such company or association, or borrow any money for the use of any such company or association.

SEC. 3. That no law of any territorial legislature shall authorize any debt to be contracted by or on behalf of such territory ex- in the following cases: To meet a casual deficit in the revenues, to pay the interest upon the territorial debt, to suppress insurrections, or to provide for the public defense, except that in addition to any indebtedness created for such purposes, the legislature may authorize a loan for the erection of penal, charitable or educational iustitutions for such territory, if the total indebtedness of the territory is not thereby made to exceed one per centum upon the assessed value of the taxable property in such territory as shown by the last general assessment for taxation. And nothing in this act shall be construed to prohibit the refunding of any existing indebtedness of such territory or of any political or municipal corporation, county or other sub-division therein.

SEC. 4. That no political or municipal corporation, county, or other sub-division in any of the territories of the United States, shall ever become indebted in any manner or for any purpose to any amount in the aggregate, including existing indebtedness, exceeding four per centum on the value of the taxable property within such corporation, county or sub-division, to be ascertained by the last assessment for territorial and county taxes previous to the incurring of such indebtedness; and all bonds or obligations in excess of such amount given by such corporation shall be void: That nothing in this act contained shall be so construed as

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to affect the validity of any act of any territorial legislature heretofore enacted, or of any obligations existing or contracted thereunder, nor to preclude the issuing of bonds already contracted for in pursuance of express provisions of law; nor to prevent any territorial legislature from legalizing the acts of any county, municipal corporation, or sub-division of any territory as to any bonds heretofore issued or contracted to be issued.

SEC. 5. That section eighteen hundred and eighty-nine, title twenty-one, of the revised statutes of the United States be amended to read as follows:

"The legislative assemblies of the several territories shall not grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing and other industrial pursuits, and for conducting the business of insurance, banks of discount and deposit (but not of issue) loan, trust, and guarantee associations, and for the construction or operation of railroads, wagon-roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable or scientific association."

SEC. 6. That nothing in this act contained shall be construed to abridge the power of congress to annul any law passed by a territorial legislature, or to modify any existing law of congress requiring in any case that the laws of any territory shall be submitted to congress.

SEC. 7. That all acts and parts of acts hereafter passed by any territorial legislature in conflict with the provisions of this act shall be null and void.

Approved July 30, 1886.

CHAP. 340.—An act to restrict the ownership of real estate in the territories to American citizens, and so forth.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be unlawful for any person or persons not citizens of the United States or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States or of some state or territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, in any of the territories of the United States or in the District of Columbia, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts heretofore created; *Provided*, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights,

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so far as they may exist by force of any such treaty shall continue to exist so long as such treaties are in force, and no longer.

SEC. 2. That no corporation or association more than twenty per centum of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations not citizens of the United States, shall hereafter acquire or hold or own any real estate hereafter acquired in any of the territories of the United States or of the District of Columbia.

SEC. 3. That no corporation other than those organized for the construction or operation of railways, canals, or turnpikes shall acquire, hold, or own more than five thousand acres of land in any of the territories of the United States; and no railroad, canal, or turnpike corporation shall hereafter acquire, hold, or own lands in any territory, other than as may be neccessary for the proper operation of its railroad, canal, or turnpike, except such lands as may have been granted to it by act of congress. But the prohibition of this section shall not affect the title to any lands now lawfully held by any such corporation.

SEC. 4. That all property acquired, held, or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the attorney general to enforce every such forfeiture by bill in equity or other proper process. And in any suit or proceedings that may be commenced to enforce the provisions of this act, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the parties concerned in any such proceeding arising out of the matters in this act mentioned.

Approved March 3, 1887.

CHAP. 397.—An act to amend an act entitled "An act to amend section fifty-three hundred and fifty-two of the revised statutes of the United States, in reference to bigamy and for other purposes," approved March twenty-second, eighteen hundred and eighty-two.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, SEC. 1. That in any proceeding or examination before a grand jury, a judge, justice, or a United States commissioner, or a court, in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United states, the lawful husband or wife of the person accused shall be a competent witness, and may be called, but shall not be compelled to testify in such proceeding, examination, or prosecution without the consent of the husband or wife, as the case may be; and such witness shall not be permitted to testify as to any statement or communication made by either husband or wife to each other, during the existence of the marriage relation, deemed comfidential at common law.

SEC. 2. That in any prosecution for bigamy, polygamy, or unlawful cohabitation, under any statute of the United States, whether

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before a United States commissioner, justice, judge, a grand jury, or any court, an attachment for any witness may be issued by the court, judge, or commissioner without a previous supœna, compelling the immediate attendance of such witness, when it shall appear, by oath or affirmation, to the commissioner, justice, judge, or court, as the case may be, that there is reasonable ground to believe that such witness will unlawfully fail to obey a supœna issued and served in the usual course in such cases, and in such case the usual witness fee shall be paid to such witness so attached: *Provided*, That the person so attached may at any time secure his or her discharge from custody by executing a recognizance with sufficient surety, conditioned for the appearance of such person at the proper time, as a witness in the cause or proceeding wherein the attachment may be issued.

SEC. 3. That whoever commits adultery shall be punished by imprisonment in the penitentiary not exceeding three years; and when the act is committed between a married woman and a man who is unmarried, both parties to such act shall be deemed guilty of adultery; and when such act is committed between a married man and a woman who is unmarried, the man shall be deemed guilty of adultery.

SEC. 4. That if any person related to another person within and not including the fourth degree of consanguinity computed according to the rules of the civil law, shall marry or cohabit with, or have sexual intercourse with such other so related person, knowing her or him to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and on conviction thereof, shall be punished by imprisonment in the penitentiary not less than three years and not more than fifteen years.

SEC. 5. That if an unmarried man or woman commit fornication, each of them shall be punished by imprisonment not exceeding six months, or by a fine not exceeding one hundred dollars.

SEC. 9. That every ceremony of marriage or in the nature of a marriage ceremony of any kind, in any of the territories of the United States, whether either or both or more of the parties to such ceremony be lawfully competent to be the subjects of such marriage or ceremony or not, shall be certified by a certificate stating the fact and nature of such ceremony, the full names of each of the parties concerned, and the full name of every officer, priest and person, by whatever style and designation called or known, in any way taking part in the performance of such ceremony, which certificate shall be drawn up and signed by the parties to such ceremony and, by every officer, priest and person taking part in the performance of such ceremony and shall be by the officer, priest or other person solemnizing such marriage or ceremony filed in the office of the probate court; or, if there be none, in the office o the court having probate powers in the county or district in whic

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such ceremony shall take place, for record, and shall be immediately recorded, and be at all times subject to inspection as other public records. Such certificate, or the record thereof, or a duly certified copy of such record shall be *prima facia* evidence of the facts required by this act to be stated therein, in any proceeding, civil or criminal, in which the matter shall be drawn in question. Any person who shall wilfully violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment not longer than two years, or by both said punishments, in the discretion of the court.

SEC. 10. That nothing in this act shall be held to prevent the proof of marriages, whether lawful or unlawful, by any evidence now legally admissible to that purpose.

SEC. 13. That it shall be the duty of the attorney general of the United States to institute and prosecute proceedings to forfeit and escheat to the United States the property of corporations obtained or held in violation of section three of the act of congress approved the first day of July, eighteen hundred and sixty-two, entitled, "An act to punish and prevent the practice of polyamy in the territories of the United States and other places, and disapproving and annulling certain acts of the legislative assembly of the territory of Utah,"— or in violation of section eighteen hundred and ninety of the revised statutes of the United States; and all such property so forfeited and escheated to the United States shall be disposed of by the secretary of the interior, and the proceeds thereof applied to the use and benefit of the common schools in the territory in which such property may be: *Provided*, that no building, or the grounds appurtenant thereto, which is held and occupied exclusively for the purposes of the worship of God, or parsonage connected therewith, or burial ground shall be forfeited.

SEC, 14. That in any proceeding for the enforcement of the provisions of law against corporations or associations acquiring or holding property in any territory of the United States, in excess of the amount limited by law, the court before which such proceeding may be instituted shall have power in a summary way to compel the production of all books, records, papers, and documents of or belonging to any trustee or person holding or controlling or managing property in which such corporation may have any right, title, or interest whatever.

SEC. 18. (*a*) A widow shall be endowed of third part of all the lands whereof her husband was seized of an estate of inheritance at any time during the marriage unless she shall have lawfully released her right thereto.

(*b*) The widow of any alien who at the time of his death shall be entitled by law to hold any real estate, if she be an inhabitant of the territory at the time of such death, shall be entitled to dower of such estate in the same manner as if such alien had been a native citizen.

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(*c*) If a husband seized of an estate of inheritance in lands exchanges them for other lands, his widow shall not have dower of both, but shall make her election to be endowed of the lands given or of those taken in exchange; and if such election be not evinced by the commencement of proceedings to recover her dower of the lands given in exchange within one year after the death of her husband, she shall be deemed to have elected to take her dower of the lands received in exchange.

(*d*) When a person seized of an estate of inheritance in lands shall have executed a mortgage, or other conveyance in the nature of mortgage, of such estate, before marriage, his widow shall nevertheless be entitled to dower out of the lands mortgaged or so conveyed as against every person except the mortgagee or grantee in such conveyance and those claiming under him.

(*e*) Where a husband shall purchase lands during coverture, and shall at the same time execute a mortgage, or other conveyance in the nature of mortgage, of his estate in such lands to secure the payment of the purchase-money, his widow shall not be entitled to dower out of such lands, as against the mortgagee, or grantee in such conveyance, or those claiming under him, although she shall not have united in such mortgage; but she shall be entitled to her dower in such lands as against all other persons.

(*f*) Where in such case the mortgagee, or such grantee or those claiming under him, shall, after the death of the husband of such widow, cause the land mortgaged or so conveyed to be sold either under a power of sale contained in the mortgage or such conveyance or by virtue of the decree of a court if any surplus shall remain after payment of the moneys due on such mortgage or such conveyance, and the costs and charges of the sale, such widow shall nevertheless be entitled to the interest or income of the one-third part of such surplus for her life, as her dower.

(*g*) A widow shall not be endowed of lands conveyed to her husband by way of mortgage unless he acquire an absolute estate therein during the marriage period.

(*h*) In case of divorce dissolving the marriage contract for the misconduct of the wife, she shall not be endowed.

SEC. 26. That all religious societies, sects, and congregations shall have the right to have and to hold, through trustees appointed by any court exercising probate powers in a territory, only on the nomination of the authorities of such society, sect, or congregation, so much real property for the erection or use of houses of worship, and for such parsonages and burial grounds as shall be necessary for the convenience and use of the several congregations of such religious society, sect, or congregation.

Received by the President, February 19, 1887.

NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the president of the United States for his

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approval, and not having been returned by him to the house of congress in which it originated within the time prescribed by the constitution of the United States, has become a law without his approval.]

CHAP. 340.—An act to amend section fifty-three hundred and eighty-eight of the revised statutes of the United States, in relation to timber depredations.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section fifty-three hundred and eighty-eight of the revised statutes of the United States be amended so as to read as follows: "Every person who unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys or procures to be wantonly destroyed, any timber standing upon the land of the United States which, in pursuance of law, may be reserved or purchased for military or other purposes, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under authority of the United States, shall pay a fine of not more than five hundred dollars or be imprisoned not more than twelve months, or both, in the discretion of the court."

Approved June 4, 1888

CHAP. 785.—An act to authorize the juries of the United States circuit and district courts to be used interchangeably, and to provide for drawing talesmen.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act of Congress approved June thirtieth, eighteen hundred and seventy-nine, chapter fifty-two, section two, be, and the same is hereby, amended, so that whenever any circuit or district court of the United States shall be held at the same time and place they shall be authorized and required, if the business of the courts will permit, to use interchangeably the juries in either court drawn according to the provisions of said act.

Approved, August 8, 1888.

CHAP. 818.—An act in relation to marriage between white men and Indian women.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That no white man, not otherwise a member of any tribe of Indians, who may hereafter marry, an Indian woman, member of any Indian tribe in the United States, or any of its territories, except the five civilized tribes in the Indian territory, shall by such marriage hereafter acquire any right to any tribal property, privilege or interest whatever to which any member of such tribe is entitled.

SEC. 2. That every Indian woman, member of any such tribe of Indians, who may hereafter be married to any citizen of the United States, is hereby declared to become by such marriage a citizen of the United States, with all the rights, privileges and immunities of any such citizen, being a married woman: *Provided*, That nothing in this act contained shall impair or in any way affect the right or title of such married woman to any tribal property or any interest therein.

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SEC. 3. That whenever the marriage of any white man with any Indian woman, a member of such tribe of Indians, is required or offered to be proved in any judicial proceeding, evidence of the admission of such fact by the party against whom the proceeding is had, or evidence of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which ths fact may be inferred, shall be competent.

Approved, August 9, 1888.

CHAP. 172.—An act in relation to dead and fallen timber on Indian lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the president of the United States may from year to year in his discretion, under such regulations as he may prescribe authorize the Indians residing on reservations or allotments, the fee to which remains in the United States, to fell, cut, remove, sell or otherwise dispose of the dead timber standing or fallen, on such reservation or allotment for the sole benefit of such Indian or Indians. But whenever there is reasonable ground to believe that such timber has been killed, burned, girdled, or otherwise injured for the purpose of securing its sale under this act, then in that case such authority shall not be granted.

Approved, February 16, 1888.

CHAP. 236.—An act to provide for writs of error or appeals to the supreme court of the United States in all cases involving the jurisdiction of the courts below.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in all cases where a final judgment or decree shall be rendered in a circuit court of the United States in which there shall have been a question involving the jurisdiction of the court, the party against whom the judgment or decree is rendered shall be entitled to an appeal or writ of error to the supreme court of the United States to review such judgment or decree without reference to the amount of the same; but in cases where the decree or judgment does not exceed the sum of five thousand dollars, the supreme court shall not review any question raised upon the record except such question of jurisdiction; such writ of error or appeal shall be taken and allowed under the same provisions of law as apply to other writs of error or appeals except as provided in the next following section.

SEC. 2. That in cases of judgments or decrees mentioned in the first section of this act, and heretofore rendered, where the period of limitation for taking writs of error or appeals in other cases has not expired, appeals or writs of error may be sued out at any time within one year after the passage of this act.

Approved, February 25, 1889.

CHAP. 381.—An act to withdraw certain public lands from private entry, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and

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after the passage of this act no public lands of the United States, except those in the state of Missouri shall be subject to private entry.

SEC. 2. That any person who has not heretofore perfected title to a tract of land of which he has made entry under the homestead law, may make a homestead entry of not exceeding one quarter section of public land subject to such entry, such previous filing or entry to the contrary notwithstanding; but this right shall not apply to persons who perfect title to lands under the pre-emption or homestead laws already initiated: *Provided*, That all pre-emption settlers upon the public lands whose claims have been initiated prior to the passage of this act may change such entries to homestead entries and proceed to perfect their titles to their respective claims under the homestead law notwithstanding they may have heretofore had the benefit of such law, but such settlers who perfect title to such claims under the homestead law shall not thereafter be entitled to enter other lands under the pre-emption or homestead laws of the United States.

SEC. 3. That whenever is shall be made to appear to the register and receiver of any public land office, under such regulations as the Secretary of the Interior may prescribe, that any settler upon the public domain under existing law is unable by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty, to secure a support for himself, herself, or those dependent on him or her upon the lands settled upon, then such register and receiver may grant to such settler a leave of absence from the claim upon which he or she has filed for a period not exceeding one year at any one time, and such settler so granted leave of absence shall forfeit no rights by reason of such absence: *Provided*, That the time of such actual absence shall not be deducted from the actual residence required by law.

SEC. 4. That the price of all sections and parts of sections of the public lands within the limits of the portions of the several grants of lands to aid in the construction of railroads which have been heretofore and which may hereafter be forfeited, which were by the act making such grants or have since been increased to the double minimum price, and, also, of all lands within the limits of any such railroad grant, but embraced in such grant lying adjacent to and coterminous with the portions of the line of any such railroad which shall not be completed at the date of this act, is hereby fixed at one dollar and twenty-five cents per acre.

SEC. 5. That any homestead settler who has heretofore entered less than one-quarter section of land may enter other and additional land lying contiguous to the original entry, which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres without proof of residence upon and cul-



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tivation of the addition entry; and if final proof of settlement and cultivation has been made for the original entry, when the additional entry is made, then the patent shall issue without further proof: *Provided*, That this section shall not apply to or for the benefit of any person who at the date of making application for entry hereunder does not own and occupy the lands covered by his original entry: *And provided*, That if the original entry should fail for any reason, prior to patent or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or if having been initiated shall be canceled.

SEC. 6. That every person entitled, under the provisions of the homestead laws, to enter a homestead, who has heretofore complied with or who shall hereafter comply with the conditions of said laws, and who shall have made his final proof thereunder for a quantity of land less than one hundred and sixty acres and received the receiver's final receipt therefor, shall be entitled under said laws to enter as a personal right, and not assignable, by legal subdivisions of the public lands of the United States subject to homestead entry, so much additional land as added to the quantity previously so entered by him shall not exceed one hundred and sixty acres: *Provided*, That in no case shall patent issue for the land covered by such additional entry until the person making such additional entry shall have actually and in conformity with the homestead laws resided upon and cultivated the lands so additionally entered and otherwise fully complied with such laws: *Provided, also*, That this section shall not be construed as affecting any rights as to location of soldiers' certificates heretofore issued under section two thousand three hundred and six of the Revised Statutes.

SEC. 7. That the "act to provide additional regulations for homestead and pre-emption entries of public lands," approved March third, eighteen hundred and seventy-nine, shall not be construed to forbid the taking of testimony for final proof within ten days following the day advertised as upon which such final proof shall be made, in cases where accident or unavoidable delays have prevented the applicant or witnesses from making such proof on the date specified.

SEC. 8. That nothing in this act shall be construed as suspending, repealing or in any way rendering inoperative the provisions of the act entitled, "An act to provide for the disposal of abandoned and useless military reservations," approved July fifth, eighteen hundred and eighty-four.

Approved, March 2, 1889.

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## CHAPTER TWO.

# Of Provisions Concerning Particular Organized Territories.

### Sections Relating to the Territory of Montana.

Sec. 1903. All that part of the territory of the United States included within the following limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degre of north latitude; thence due west on the forty-fifth degree of latitude, to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the thirty-fourth degree of longitude, to a point formed by its intersection with the crest of the Rocky mountains; thence following the crest of the Rocky mountains northward till its intersection with the Bitter Root mountains; thence northward, along the crest of the Bitter Root mountains, to its intersection with the thirty-ninth degree west from Washington; thence along the thirty-ninth degree of longitude northward to the boundary line of the British possessions; thence eastward, along that boundary line, to the twenty-seventh degree of longitude west from Washington; thence southward along the twenty-seventh degree of longitude, to the place of beginning—is created into a temporary government by the name of the territory of Montana.

Sec. 1906. The delegate to the house of representatives from each of the territories of Washington, Idaho and Montana must be a citizen of the United States.

Sec. 1907. The judicial power in New Mexico, Utah, Washington, Colorado, Dakota, Idaho, Montana, and Wyoming shall be veste d in a supreme court, district courts, probate courts, and in justices of the peace.

Sec. 1909. Writs of error and appeals from the final decisions of the supreme court of either of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana, and Wyoming shall be allowed to the supreme court of the United States in the same manner and under the same regulations as from the circuit

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courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath of either party, or of other competent witnesses, exceeds five thousand dollars, exclusive of costs, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the supreme courts created by this title, or of any judge thereof, or of the district courts created by this title, or of any judge thereof, upon writs of *habeas corpus* involving the question of personal freedom.

SEC. 1910. Each of the district courts in the territories mentioned in the preceding section shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of the respective district courts, or so much thereof as is necessary, shall be appropriated to the trial of causes arising under such constitution and laws; but writs of error and appeals in all such cases may be had to the supreme court of each territory, as in other cases.

SEC. 1914. The judges of the supreme courts of the territories of Idaho and Montana, or a majority of them shall, when assembled at their respective seats of government, define the judicial districts of each of such territories, and assign the judges who may be appointed for each of such territories to the several districts; and shall also fix the times and places for holding court in the several counties or sub-divisions in each of such judicial districts, and alter the times and places of holding the courts, as to them may seem proper and convenient; but not less than two terms a year shall be held at each place of holding court in the territory of Montana.

SEC. 1926. Justices of the peace, in the territories of New Mexico, Utah, Dakota, and Wyoming, shall not have jurisdiction of any matter in controversy where the debt or sum claimed exceeds one hundred dollars.

SEC. 1932. The probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are authorized to hear and determine civil causes wherein the damage or debt claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of the grand jury; but they shall not have jurisdiction of any matter in controversy when the title or right to the peaceable possession of land may be in dispute, or of chancery or divorce causes; and in all cases an appeal may be taken from an order, judgment, or decree of the probate courts to the district court.

SEC. 1940. There shall be appropriated, respectively, for the territories of Washington, Idaho, and Montana, annually, a sufficient sum, to be expended by the secretary of each territory herein named, upon an estimate to be made by the secretary of the treasury, to defray the expenses of the legislative assembly and other

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incidental expenses. The governor and secretary of each territory above specified shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury, and shall, semi-annually, account to such secretary for the manner in which such sums of money have been expended.

SEC. 1941. No payment of salary shall be made to the governor, secretary, chief justice, and associate justices of Washington, Idaho, and Montana territories, until such officers have entered upon the duties of their respective appointments.

SEC. 1943. The members of the legislative assembly of Idaho and Montana territories shall each receive four dollars for every twenty miles travel in going to and returning from the sessions of their respective bodies, estimated accordingly to the nearest usually traveled route.

SEC. 1945. The seat of government, when once fixed by the governor and legislative assembly of Idaho and Montana, respectively, shall not be at any time changed, except by an act of such assembly for each territory, respectively, duly passed and approved, after due notice, at the first general election thereafter, by a majority of the legal votes cast on that question.

SEC. 1946. Sections numbered sixteen and thirty-six, in each township of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana, and Wyoming shall be reserved for the purpose of being applied to schools in the several territories herein named, and in the states and territories hereafter to be erected out of the same.

SEC. 1951. All officers to be appointed by the president by and with the advice and consent of the senate, for the territories of Washington, Idaho, and Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

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# Session Laws of Congress

## Relating to Government in Montana.

ENACTED SUBSEQUENT TO THE REVISION.

FORTY-THIRD CONGRESS. SESSION I. CHAPTER 80.—An act concerning the practice in territorial courts, and appeals therefrom.

WHEREAS, by the organic acts establishing several of the territories of the United States, it is provided that certain courts thereof shall have common law and chancery jurisdiction, and doubts having been entertained whether said jurisdictions must be exercised separately, or whether they may be exercised together in the same proceeding, and whether the codes and rules of practice adopted in said territories which have authorized a mingling of said jurisdictions in the same proceeding, or a uniform course of proceeding in cases, legal and equitable, are repugnant to the said organic acts respectively; therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall not be necessary in any of the courts of the several territories of the United States to exercise separately the common law and chancery jurisdictions vested in said courts; and that the several codes and rules of practice adopted in the said territories respectively, in so far as they authorize a mingling of said jurisdictions, or a uniform course of proceedings, whether legal or equitable, be confirmed: and that all proceeding heretofore had or taken in said courts, in conformity with said respective codes and rules of practice, so far as relates to the form and mode of proceeding, be, and and the same are hereby validated and confirmed; *Provided*, That no party has been or shall be deprived of the right of trial by jury in cases cognizable at common law.

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SEC. 2. That the appellate jurisdiction of the supreme court of the United States, over the judgments and decrees of said territorial courts in cases of trial by jury, shall be excercised by writ of error, and in all other cases by appeal, according to such rules and regulations as to form, and modes of proceedings as the said supreme court has prescribed, or may hereafter prescribe: *Provided*, That on appeal, instead of the evidence at large, a statement of the facts of the case in the nature of a special verdict, and also the rulings of the court on the admission or rejection of evidence when excepted to, shall be made and certified by the court below, and transmitted to the supreme court, together with the transcript of the proceedings and judgment or decree; but no appelate proceedings in said supreme court, heretofore taken upon any such judgment or decree, shall be invalidated by reason of being instituted by writ of error or by appeal: *And provided further*, That the appellate may make any order in any case heretofore appealed, which may be necessary to save the rights of the parties; and that this act shall not apply to cases now pending in the supreme court of the United States where the record has already been filed.

Approved, April 7, 1874.

IBID. CHAP. 332.—An act to amend the act entitled "An act transferring the control of certain territorial penitentiaries to the several territories in which the same are located," approved January twenty-fourth, eighteen hundred and seventy-three.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the act entitled "An act transferring the control of certain territorial penitentiaries to the several territories in which the same are located," approved January twenty-fourth, eighteen hundred and seventy-three, be, and the same is hereby amended by striking out the words Montana, Idaho, and Wyoming, wherever the same occur in said act, and the said act shall hereafter have no applicability to the territories of Montana, Idaho and Wyoming.

SEC. 2. That the penitentaries in the territories of Montana, Idaho, and Wyoming shall continue under the care and control of the marshal of the United States for said territories, under and pursuant to the provisions of the act entitled "An act in relation to certain territorial penitentiaries," approved January tenth, eighteen hundred and seventy-one; which said last mentioned act is hereby revived and re-enacted so far as the same applies to the territories of Montana, Idaho, and Wyoming.

Approved June 20, 1874.

FORTY-THIRD CONGRESS. SESSION II. CHAPTER 114. An act to protect all citizens in their civil and legal rights.

WHEREAS, it is essential to just government that we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal

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and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law: therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all persons within the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land and water, theaters and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accomodadations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offence, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs, and shall also, for every such offence, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year: *Provided*, That all persons may elect to sue for the penalty aforesaid or to proceed under their rights at common law and by state statutes; and having so elected to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this proviso shall not apply to criminal proceedings, either under this act or the criminal law of any state: *And provided further*, That a judgment for the penalty in favor of the party aggrieved or a judgment upon an indictment, shall be a bar to either prosecution, respectively.

SEC. 3. That the district and circuit courts of the United States shall have, exclusively of the courts of the several states cognizance of all the crimes and offences against, and violations of provisions of this act; and actions for the penalty given by the preceding section may be prosecuted in the the territorial, district, or circuit courts of the United States wherever the defendant may be found, without regard to the other party, and the district attorneys, marshals, and deputy marshals of the United States, and commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting and imprisoning or bailing offenders against the laws of the United States, are hereby specially authorized and required to institute proceedings against every person who shall violate the provisions of this act, and cause him

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to be arrested, and imprisoned or bailed, as the case may be, for trial before such court of the United States, or territorial court, as by law has cognizance of the offence, except in respect of the right of action accruing to the person aggrieved; and such district attorneys shall cause such proceedings to be prosecuted to their termination as in other cases; *Provided*, That nothing contained in this section shall be construed to deny or defeat any right of civil action accruing to any person whether by reason of this act or otherwise; and any district attorney who shall wilfully fail to institute and prosecute the proceedings herein required shall, for every such offence, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action of debt, with full costs, and shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not less than one thousand nor more than five thousand dollars; *And provided further*, That a judgment for the penalty in favor of the party aggrieved against any such district attorney, or a judgment on an indictment against any such district attorney, shall be a bar to either prosecution respectively.

SEC. 4. That no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any state, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars.

SEC. 5. That all cases arising under the provisions of this act in the courts of the United States shall be reviewable in the supreme court of the United States without regard to the sum in controversy, under the same provisions and regulations as are now provided by law for the review of other causes in said court.

Approved March 1, 1875.

FORTY-FOURTH CONGRESS, SESSION I. CHAP. 88. EXTRACT. * * * * And hereafter payment of salaries of all officers of the territories of the United States appointed by the president, shall commence only when the person appointed shall take the proper oath, and shall enter upon the duties of such office in such territory; and said oath shall hereafter be administered in the territory where such office is held.

IBID. CHAP. 287. EXTRACT. Territory of Montana: * * * *Provided*, That the next legislative assembly shall convene at the seat of government of the territory on the second Monday of January, eighteen hundred and seventy-seven, and biennially thereafter.

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FORTY-FOURTH CONGRESS. SESSION II. CHAP. 107.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," and upon payment of twenty-five cents per acre—to file a declaration, under oath, which the register and receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same, within the period of three years thereafter: *Provided, however*, That the right to the use of the water by the person so conducting the same, on or to any tract of desert land of six hundred and forty acres shall depend upon *bona fide* prior appropriation; and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers and other sources of water supply upon the public lands, and not navigable, shall be held and remain free from the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall prescribe particularly said section of land, if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any any time within a period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land, in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: *Provided*, That no person shall be permitted to enter more than one tract of land, and not to exceed six hundred and forty acres, which shall be in compact form.

SEC. 2. That all lands exclusive of timber and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of this act, which fact shall be ascertained by proof of two or more creditable witnesses, under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated.

SEC. 3. This act shall only apply to and take effect in the states of California, Oregon and Nevada, and the territories of Washington. Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the commissioner of the general land office.

FORTY-FIFTH CONGRESS. SESSION II. CHAP. 37.

*Be it enacted by the Senate and House of Representatives of*

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*the United States of America in Congress assembled*, That in the trial of all indictments, informations, complaints, and other proceedings against persons charged with the commission of crimes, offences, and misdemeanors, in the United States' courts, territorial courts, and courts-martial, and courts of equity, in any state or territory, including the District of Columbia, the person so charged shall, at his own request, but not otherwise, be a competent witness. And his failure to make such request shall not create any presumption against him.

IBID. CHAP. 76. EXTRACT. * * * * * * *
*And provided further*, That where wood and timber lands in the territories of the United States are not surveyed and offered for sale in the proper sub-divisions, convenient of access, no money herein appropriated shall be used to collect any charge for wood or timber cut on the public lands in the territories of the United States, for the use of actual settlers in the territories, and not for export from the territories of the Unites States, where the timber grew: *And provided further*, That if any timber cut on the public lands shall be exported from the territories of the United States, it shall be liable to seizure by the United States authority wherever found.

IBID. CHAP. 150. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the citizens of the United States, and other persons *bona fide* residents of the states of Colorado or Nevada, or either of the territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized to fell and remove for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to enty under existing laws of the United States, except for mineral entry, in either of said states, territories or districts, of which such citizens or persons may be at the time *bona fide* residents, subject to such rules and regulations as the secretary of the interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: *Provided*, The provisions of this act shall not extend to railroad corporations.

SEC. 2. That it shall be the duty of the register and the receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purpose authorized by this act, within their respective land districts, and, if so, they shall immediately notify the commissioner of the general land office of the fact; and all necessary expenses incurred in making such proper examinations shall be paid and allowed such register and receiver in making up their next quarterly accounts.

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SEC. 3. Any persons who shall violate the provisions of this act or any rules and regulations in pursance thereof made by the secretary of the interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months.

IBID. CHAP. 168. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the words "the legislative assemblies of the several territories shall not grant private charters or special privileges" in section eighteen hundred and eighty-nine of the revised statues of the United States shall not be construed as prohibiting the legislative assemblies of the several territories of the United States from creating towns, cities or other municipal corporations, and providing for the government of the same, and conferring upon them the corporate powers and privileges, necessary to their local administration, by either general or special acts; and that all general and special acts of such legislative assemblies heretofore passed creating and providing for the government of towns, cities, or other municipal corporations. and conferring such rights, powers and privileges upon the same, as were necessary to their local administration, be, and the same are hereby, ratified and confirmed and declared to be valid, and law to the contrary notwithstanding; subject, however, to amendment or repeal hereafter by such territorial assemblies. But nothing herein shall have the effect to create any private right, except that of holding any executing municipal offices, or to divest any such right, or to make valid or invalid any contract or obligation heretofore made by or on behalf of any such town, city, or other municipal corporation, or to authorize any such corporation to incur hereafter any debt or obligation other than such as shall be necessary to the administration of its internal affairs.

IBID. CHAP. 329. EXTRACT. * * * * That from and after the adjournment of the next session of the several territorial legislatures the council of each of the territories of the United States shall not exceed twelve members, and the house of representatives of each shall not exceed twenty-four members, and the members of each branch of the said several legislatures shall receive a compensation of four dollars per day each during the sessions provided by law, and shall receive such mileage as the law provides; and the president of the council and the speaker of the house of representatives shall each receive six dollars per day for the same time. And the several legislatures at their next sessions are directed to divide their respective territories into as many council and representative districts as they desire, which districts shall be as nearly equal as practicable, taking into consideration population, except "Indians not taxed;" *Provided*, The number of council districts shall not exceed twelve, and the representative districts shall not exceed

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twenty-four in any one of said territories, and all parts of sections eighteen hundred and forty-seven, eighteen hundred and forty-nine, eighteen hundred and and fifty-three, and nineteen hundred and twenty-two of the revised statutes of the United in conflict with the provisions herein, are repealed.

That the subordinate officers of each branch of said territorial legislatures shall consist of one chief clerk, who shall receive a compensation of six dollars per day; one enrolling and engrossing clerk at five dollars per day; sergeant-at-arms and doorkeeper, at five dollars per day; one messenger and watchman, at four dollars per day each; and one chaplain, at one dollar and fifty cents per day. Said sums shall be paid only during the sessions of said legislatures; and no greater number of offices or charges per diem shall be paid or allowed by the United States to any territory. And section eighteen hundred and sixty-one of the revised statutes is hereby repealed, and this substituted in lieu thereof; *Provided*, That for the performance of all official duties imposed by the territorial legislatures, and not provided for in the organic act, the secretaries of the territories respectively shall be allowed such fees as may be fixed by the territorial legislatures. And in no case shall the expenditures for public printing in any of the territories exceed the sum of two thousand, five hundred dollars for any one year.

IBID. CHAP. 362. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way through the public lands of the United States and other privileges heretofore granted by law to the Utah Northern railroad company are hereby modified and regranted so as to enable the Utah Northern railway company to build their road by the way of Marsh valley, Portneuf river, and Snake river valley instead of by the way of Soda Springs and Snake river valley as originally granted.

SEC. 2. And said company is hereby made a railway corporation in the territories of Utah, Idaho and Montana, under the same conditions and limitations and with the same rights and privileges that it now has and enjoys under its articles of incorporation: *Provided*, That said corporation shall at all times hereafter be subject to all the laws and regulations in relation to railroads of the United States or of any territory or state through which it may pass. And suits against said corporation may be instituted in the courts of said territories, or either of them, having jurisdiction by the laws of such territory.

SEC. 3. Congress may at any time add to, alter, amend or repeal this act.

FORTY-SIXTH CONGRESS. SESSION II. CHAP. 56.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That when, from any cause, there shall be a vacancy in the office of justice of

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the peace in any of the territories of the United States, it shall be lawful to fill such vacancy by appointment or election, in such manner as has been or may be provided by the governor and legislative assembly of such territory: *Provided*, That such appointee, or person elected to fill such vacancy, shall hold office only until his successor shall be regularly elected and qualified, as provided by law.

IBID. CHAP. 235. EXTRACT. * * * * * * * That the legislative assemblies of the several territories of the United States may make such provisions for the care and custody of such persons as may be convicted of crime under the laws of such territory as they shall deem proper; and for that purpose may authorize and contract for the care and custody of such convicts in any other territory or state; and provide that such person or persons may be sentenced to confinement accordingly in such other territory or state; and all existing legislative enactments of any of the territories for that purpose are hereby legalized: *Provided*, That the expense of keeping such prisoners shall be borne by the respective territories, and no part thereof shall be borne by the United States.

[PUBLIC—NO. 6.]

AN ACT amending section 1852 of the revised statutes of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 1852, be and the same hereby is, so amended as to read as follows:

SEC. 1852. The sessions of the legislative assembly of the several territories of the United States shall be limited to sixty days' duration.

Approved December 23, 1880.

FORTY-SEVENTH CONGRESS. SESSION I. CHAP. 389. EXTRACT. * * * * And hereafter no expense for printing exceeding three thousand seven hundred and fifty dollars, including printing laws, journals, bills, and necessary printing of the same nature, shall be incurred for any session of the legislature of any of the territories.

Approved August 5, 1882.

[PUBLIC—NO. 191.]

AN ACT regulating appeals from the supreme court of the District of Columbia and the supreme courts of the several territories.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That no appeal or writ of error shall hereafter be allowed from any judgment or decree in any suit at law or in equity in the supreme court of the District of Columbia, or in the supreme court of any of the territories of the United States, unless the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars.

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SEC. 3. That the preceding section shall not apply to any case wherein is involved the validity of any patent or copyright, or in which is drawn in question the validity of a treaty or statute of or an authority exercised under the United States; but in all such cases an appeal or writ of error may be brought without regard to the sum or value in dispute.

Approved March 3, 1885.

CHAP. 758.—An act relating to the supreme court of Montana Territory and providing for the establishment of judicial districts in said territory.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That hereafter the supreme court of the territory of Montana shall consist of a chief justice and three associate justices; three of whom shall constitute a quorum; they shall hold their offices for four years, and until their successors are appointed and qualified; they shall hold a term annually at the seat of government of said territory, *Provided however*, That no justice shall act as a member of the supreme court of said territory of Montana in any action or proceeding brought to such court by writ of error, bill of exceptions, or appeal from a decision, judgment, or decree rendered by him as judge of a district court.

SEC. 2. That said territory shall be divided into four judicial districts, and a district court shall be held in each district of the territory by one of the justices of the supreme court, at such time and place as may be prescribed by law.

SEC. 3. That all offences committed before the passage of this act shall be prosecuted, tried and determined in the same manner and with the same manner and with the same effect as if this act had not been passed.

Approved July 10, 1886.

CHAP. 132.—An act authorizing the Secretary of War to adjust and settle the account for arms, ammunition and accouterments between the Territory of Montana and the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the secretary of war be, and he is hereby, authorized and directed to adjust and balance the account for arms, ammunition and accouterments between the the territory of Montana and the government of the United States, by crediting said territory with the balance now standing against it on said account.

Approved February 17, 1887.

CHAP. 213.—An act to ratify and confirm an agreement wih the Gros Ventre, Piegan, Blood, Blackfeet, and River Crow Indians in Montana, and for other purposes.

Whereas, John V. Wright, Jared W. Daniels, and Charles F. Larabee, duly appointed commissioners on the part of the United

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States, did, on the twenty-eighth and thirty-first days of December, anno Domini eighteen hundred and eighty-six, and the twenty-first day of January, anno Domini eighteen hundred and eighty-seven, conclude an agreement with the various tribes or bands of Indians residing upon the Gros Ventre, Piegan, Blood, Blackfeet, and River Crow Reservation in Montana territory, by their chiefs, head-men and principal men, embracing a majority of all the male adult Indians occupying said reservation, which said agreement is as follows:

Agreement concluded December twenty-eighth and thirty-first, eighteen hundred and eighty-six, and January twenty-first, eighteen hundred and eighty-seven, with the Indians of the Gros Ventre, Piegan, Blood, Blackfeet, and River Crow Reservation in Montana, by John V. Wright, Jared W. Daniels, and Charles F. Larabee, Commissioners.

This agreement, made pursuant to an item in the act of Congress entitled "An act making approviations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and eighty-seven, and for other purposes," approved May fifteenth, eighteen hundred and eighty-six, by John V. Wright, Jared W. Daniels, and Charles F. Larabee, duly appointed commissioners on the part of the United States, and the various tribes or bands of Indians residing udon the Gros Ventre, Piegan, Blood, Blackfoot and River Crow Reservation in the territory of Montana, by their chiefs, and principal men, embracing a majority of all the male adult Indians occupying said reservation, witnesseth that—

Whereas the reservation set apart by act of congress approved April fifteenth, eighteen hundred and seventy-four, for the use and occupancy of the Gros Ventre, Piegan, Blood, Blackfoot, River Crow, and such other Indians as the president might, from time to time, see fit to locate thereon, is wholly out of proportion to the number of Indians occupying the same, and greatly in excess to their present or prospective wants: and whereas the said Indians are desirous of disposing of so much thereof as they do not require, in order to obtain the means to enable them to become self-supporting, as a pastorial and agricultural people, and to educate their children in the paths of civilization; Therefore to carry out such purpose, it is hereby agreed as follows:

ARTICLE I.

Hereafter the permanent homes of the various tribes or bands of said Indians shall be upon the seperate reservations hereinafter described and set apart. Said Indians acknowledging the rights of the various tribes or bands, at each of the existing agencies within

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their present reservation, to determine for themselves, with the United States, the boundaries of their separate reservation, hereby agree to accept and abide by such agreements and conditions as to the location and boundaries of such separate reservation as may be made and agreed upon by the United States and the tribes or bands for which such separate reservation may be made, and as the said

ARTICLE II.

separate boundaries may be hereinafter said forth.

The said Indians hereby cede and relinquish to the United States all their right, title, and interest in and to all the lands embraced within the aforesaid Gros Ventre, Piegan, Blood, Blackfoot, and River Crow reservation, not herein specifically set apart and reserved as separate reservations for them, and do severally agree to accept and occupy the separate reservations to which they are herein assigned as their permanent homes, and they do hereby severally relinquish to the other tribes or bands respectively occupying the other separate reservations, all their right, title, and interest in and to the same, reserving to themselves only the reservation herein set apart for their separate use and occupation.

ARTICLE III.

In consideration of the foregoing cession and relinquishment the United States hereby agrees to advance and expend annually, for the period of ten years after the ratification of this agreement, under direction of the secretary of the interior, for the Indians now attached to and receiving rations at the Fort Peck agency, one hundred and sixty-five thousand dollars; for the Indians now attached to and receiving rations at the Fort Belknap agency, one hundred and fifteen thousand, dollars and for the Indians now attached to and receiving rations at the Blackfeet agency, one hundred and fifty thousand dollars, in the purchase of cows, bulls, and other stock, goods, clothing, subsistence, agricultural and mechanical implements, in providing employees, in the education of Indian children, procuring medicine and medical attendance, in the care and and support of the aged, sick, and infirm, and helpless orphans of said Indians, in the erection of such new agency and school buildings, mills, and blacksmith, carpenter, and wagon shops as may be neccessary, in assisting the Indians to build houses and inclose their farms, and in any other respect to promote their civilization, comfort and improvement: *Provided*, That in the employment of farmers, artisans, and laborers, preference shall in all cases be given to Indians residing on the reservation who are well qualified for such position: *Provided further*, That all cattle issued to said Indians for stock-raising purposes, and their progeny, shall bear the brand of the Indian department, and shall not be sold, exchanged,



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or slaughtered, except by consent or order of the agent in charge, until such time as this restriction shall be removed by the commissioner of Indian affairs.

ARTICLE IV.

It is further agreed that whenever in the opinion of the president the annual installments provided for in the foregoing article shall be found to be in excess of the amount required to be expended in any one year in carrying out the provisions of this agreement upon either of the separate reservations, so much thereof as may be in excess of the requirement shall be placed to the credit of the Indians of such reservation, in the treasury of the United States, and expended in continuing the benefits herein provided for when said annual installments shall have expired.

ARTICLE V.

In order to encourage habits of industry, and reward labor, it is further understood and agreed, that in giving out or distribution of cattle or other stock, goods, clothing, subsistence, and agricultural implements, as provided for in Article III, preference shall be given to Indians who endeavor by honest labor to support themselves, and especially to those who in good faith undertake the cultivation of the soil or engage in pastoral pursuits, as a means of obtaining a livelihood, and the distribution of these benefits shall be made from time to time, as shall best promote the objects specified.

ARTICLE VI.

It is further agreed that any Indian belonging to either of the tribes or bands, parties hereto, who had, at the date of the execution of this agreement by the tribe or band to which he belongs, settled upon and made valuable improvements upon any of the lands ceded to the United States under the provisions of this agreement, shall be entitled, upon application so the local land office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantity as follows: To the head of the family, one hundred and sixty acres; to each child over eighteen years of age, eighty acres; to each child under eighteen years of age, forty acres; and the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto. Upon the approval of said allotments by the secretary of the interior, he shall cause patents to be issued therefor in the name of the allottees, which patents shall be of the legal effect and declare that the United States does and will hold the lands thus allotted for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs, according to the laws of the territory of Montana, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and

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free of all charge or incumbrance whatsoever. And if any conveyance shall be made of said lands, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, that the laws of descent and partition in force in said territory shall apply thereto after patents therefor have been executed and delivered: *Provided, further*, That any such Indian shall be entitled to his distributive share of all the benefits to be derived from the cession of lands to the United States under this agreement, the same as though he resided within the limits of the diminished reservation to which he would properly belong.

ARTICLE VII.

The out boundaries of the separate reservations, or such portions thereof as are not defined by natural objects, shall be surveyed and marked in a plain and substantial manner, the cost of such surveys to be paid out of the first annual installments provided for in Article III of this agreement.

ARTICLE VIII.

It is further agreed that, whenever in the opinion of the president the public interests require the construction of railroads or other highways, or telegraph lines, through any portion of either of the separate reservation established and set apart under the provisions of this agreement, right of way shall be, and is hereby, granted for such purposes, under such rules, regulations, limitations, and restrictions as the secretary of the interior may prescribe; the compensation to be fixed by said secretary and by him expended for the benefit of the Indians concerned.

ARTICLE IX.

This agreement shall not be binding upon either party until ratified by congress.

Dated and signed at Fort Peck Agency, Montana, on the twenty-eighth day of December, eighteen hundred and eighty-six.

JOHN V. WRIGHT, [SEAL.]
JARED W. DANIELS, [SEAL.]
CHAS. F. LARRABEE, [SEAL.]
Commissioners.

It is hereby agreed that the separate reservation for the Indians now attached to and receiving rations at the Fort Peck Agency, Montana, shall be bounded as follows, to wit:

Beginning at a point in the middle of the channel of the Missouri River, opposite the mouth of Big Muddy Creek; thence up the

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Missouri River, in the middle of the main channel thereof, to a point opposite the mouth of Milk River; thence up the middle of the main channel of Milk River to Porcupine Creek; thence up Porcupine Creek, in the middle of the main channel thereof, to a point forty miles due north in a direct line from the middle of the main channel of the Missouri River opposite the mouth of Milk River; thence due east to the middle of the main channel of Big Muddy Creek; thence down said creek in the middle of the main channel thereof, to the place of beginning. And said Indians shall have the right to take timber for building and fencing purposes and for fuel from the bottom lands on the right bank of the Missouri River opposite the reservation above described.

Dated and signed at Fort Peck Agency, Montana, on the twenty-eighth day of December, eighteen hundred and eighty-six.

JOHN. V. WRIGHT, [SEAL.]
JARED W. DANIELS, [SEAL.]
CHAS. F. LARRABEE, [SEAL.]

The foregoing articles having been fully explained to us, in open council, we, the undersigned chiefs, head-men and principal men of the several bands of Sioux and Assinnaboine Indians attached to and receiving rations at the Fort Peck Agency, in the territory of Montana, do hereby consent and agree to all the stipulations therein contained.

Witness our hands and seals at Fort Peck Agency, Montana, this twenty-eighth day of December, eighteen hundred and eighty-six.

[Signed by Sioux Indians and attested by]

D. O. COWAN,
United States Indian Agent.
S. H. POPE,
Superintendent Agency Boarding School.

We hereby certify that the foregoing articles of agreement were carefully read and explained to the Indians, parties hereto, in open council, and were thoroughly understood by them before signing the same, and that the agreement was executed and signed by said Indians at the Fort Peck agency, in Montana, on the twenty-eighth day of December, eighteen hundred and eighty-six.

JOHN BRUGUIER,
United States Special Interpreter.
WILLIAM CROSS,
United States Agency Interpreter.

Attest:

D. O. COWAN,
United States Indian Agent.
JAMES MACDONALD,
Industrial Teacher.

Witness our hands and seals at Wolf Point sub-agency, Montana, this thirty-first day of December, eighteen hundred and eighty-six.

(Assinniboine signatures.)

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Attest:

D. O. COWAN,
United States Indian Agent.
GEORGE W. WOOD,
Missionary Presbyterian Church.
GEORGE H. WOOD.
JAMES MACDONALD.

We hereby certify that the foregoing articles of agreement were carefully read and explained to the Indians above named in open council, and were thoroughly understood by them, before signing the same, and that the agreement was executed and signed by said Indians, at Wolf Point subagency, Montana, on the the thirty-first day of December, eighteen hundred and eighty-six.

JOHN BRUGUIER,
Special Interpreter.
HENRY ARCHDALE,
United States Indian Agency Interpreter.

Attest:

D. O. COWAN,
United States Indian Agent.

It is hereby agreed that the separate reservation for the Indians now attached to and receiving rations at the Fort Belknap agency shall be bounded as follows, to-wit:

Beginning at a point in the main channel of the the Milk river, opposite the mouth of Snake creek; thence due south to a point due west of the western extremity of the Little Rocky mountains; thence due east to the crest of said mountains at their western extremity, and thence following the southern crest of said mountains to the eastern extremity thereof; thence in a northerly direction in a direct line to a point in the middle of the main channel of Milk river opposite the mouth of Peoples creek, thence up Milk river, in the middle of the main channel thereof, to the place of beginning: *Provided*, That the secretary of the interior may, in his discretion, set apart a tract of land, within said reservation, not to exceed one hundred and sixty acres in extent, for the establishment and maintenance of an Indian mission and industrial school, under the auspices of the Society of Jesus, to include the site of their present mission buildings; but such privilege shall not debar or exclude other religious societies from establishing Indian missions and schools within said reservation, under direction of the secretary of the interior.

Dated and signed at Fort Belknap agency, Montana, on the twenty-first day of January, eighteen hundred and eighty-seven.

JNO. V. WRIGHT, [SEAL.]
JARED W. DANIELS, [SEAL.]
CHARLES F. LARRABEE, [SEAL.]
Commissioners.

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The foregoing articles of agreement having been fully explained to us, in open council, we, the undersigned chiefs, headmen, and principal men of the Gros Ventre and Assinniboine bands of Indians attached to and receiving rations at the Fort Belknap agency, in the territory of Montana, do hereby consent and agree to all the stipulations therein contained.

Witness our hands and seals at Fort Belknap agency, Montana, this twenty-first day of January, eighteen hundred and eighty-seven.

(Gros Ventre signatures.)

Attest:

W. L. LINCOLN,
United States Indian Agent.
CHAS. G. FISH,
Agency Clerk.
FRANK A. BICKFORD,
Agency Physician.
A. H. RISER,
Agency Farmer.
FRED'K EBESCHWEILER,
S. J. Missionary.

We hereby certify that the foregoing articles were carefully read and explained to the Indians above named in open council, and were thoroughly understood by them before signing the same, and that the agreement was executed and signed by said Indians at Fort Belknap Agency, Montana territory, on the twenty-first day of January, eighteen hundred and eighty-seven.

WM. BENT.
United States Agency Interpreter.
William Brown,
Special Interpreter.

Attest:

CHAS. G. FISH.

It is hereby agreed that the separate reservation for the Indians now attached to and drawing rations at the Blackfeet Agency, shall be bounded as follows, to-wit:

Beginning at a point in the middle of the main channel of the Marias River opposite the mouth of Cut Bank Creek: thence up Cut Bank Creek, in the middle of the main channel thereof, twenty miles, following the meanderings of the creek; thence due north to the northern boundary of Montana; thence west along said boundary to the summit of the main chain of the Rocky Mountains; thence in a southerly direction along the summit of said mountains to a point due west from the source of the North Fork of Birch Creek; thence due east to the source of said North Fork; thence down said North Fork to the main stream of Birch Creek: thence down Birch Creek, in the middle of the main channel thereof, to the Marias River; thence down the Marias River, in the middle of the main channel thereof, to the place of beginning.

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Dated and signed at the Blackfeet Agency, Montana, on the eleventh day of February, eighteen hundred and eighty-seven.

JNO. V. WRIGHT.
JARED W. DANIELS,
CHAS. F. LARRABEE,
Commissioners.

The foregoing articles of agreement having been fully explained to us, in open council, the undersigned, chiefs, head-men, and principal men of Piegan, Blood, and Blackfeet Nation, attached to and receiving rations at the Blackfeet Agency, in the territory of Montana, do hereby consent and agree to all the stipulations therein contained.

Witness our hands and seals at the Blackfeet Agency, Montana, this eleventh day of February, eighteen hundred and eighty-seven.

(Piegan, Blood, and Blackfeet signatures.)

Attest:

M. D. BALDWIN,
United States Indian Agent.
C. B. TOOLE,
Agency Clerk.
JOHN P. WAGNER,
Assistant Agency Clerk.

We hereby certify that the foregoing articles of agreement were carefully read and explained to the Indians above named, in open council, and were thoroughly understood by them, before signing the same, and that the agreement was signed and executed by said Indians, at the Blackfeet agency in the territory of Montana, on the eleventh day of February, eighteen hundred and eighty-seven.

WILL RUSSELL,
United States Interpreter,
JOSEPH KIPP,
Special Interpreter.

Attest:

EUGENE MEAD.
JOHN JORDEN.

Therefore,

*Be it enacted by the senate and House of Representatives of the United States of America in Congress assembled*, That said agreement be, and the same is hereby, accepted, ratified, and confirmed.

SEC. 2. That for the purpose of carrying out the terms of said agreement the sum of four hundred and thirty thousand dollar is hereby appriated to be immediately available.

SEC. 3. That lands to which the right of the Indians is extinguished under the foregoing agreement are a part of the public domain of the United States and are open to the operation of the

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laws regulating homestead entry, except section twenty-three hundred and one of the revised statutes, and to entry under the town site laws and the laws governing the disposal of coal lands, desert lands, and mineral lands; but are not open to entry under any other laws regulating the sale or disposal of the public domain.

SEC. 4. The secretary of the interior is hereby athorized to appoint a commission, consisting of three persons, with authority to negotiate with the band of Ute Indians of southern Colorado for such modification of their treaty and other rights, and such exchange of their reservation, as may be deemed desirable by said Indians and the secretary of the Interior; and said commission is also authorized, if the result of such negotiations shall make it necessary, to negotiate with any other tribes of Indians for such portion of their reservation as may be necessary for said band of Ute Indians of southern Colorado if said Indians shall determine to remove from their present location; the report of said commission to be made to and subject to ratification by congress before taking effect; and for this purpose the sum of ten thousand dollars, or so much thereof as may be neccessary, is hereby appropriated, which shall be immediately available.

Approved May 1, 1888.

CHAP. 344.—An act granting to the Billings, Clark's Fork and Cooke City Railroad Company the right of way through the Crow Indian Reservation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way is hereby granted, as hereinafter set forth, to the Billings, Clark's Fork and Cooke City railroad company, a corporation organized and existing under the laws of the territory of Montana, for the extension of its railroad through the lands in Montana territory set apart for the use of the Crow Indians, commonly known as the Crow Indian reservation, beginning at a point on the northern line of said reserve at or near where Clark's Fork empties into the Yellowstone river, and thence following in a southerly direction to a point at or near where said Clark's Fork crosses the southern line of the said Crow reserve; also a branch line of railway to be constructed for a distance of ten miles up Bear creek, and commencing from the point where said Bear creek empties into said Clark's Fork; with the right to construct, use, and maintain tracks, turnouts, and sidings.

SEC. 2. That the right of way hereby granted to said company shall be seventy-five feet in width on each side of the central line of said railroad as aforesaid; and said company shall also have the right to take from said lands adjacent to the line of said road material, stone, earth, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station-buildings, depots, machine-shops, side-tracks, turn-outs, and water-

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stations, not to exceed in amount three hundred feet in width and three thousand feet in length for each station, to the extent of one station for each ten miles of road.

SEC. 3. That it shall be the duty of the secretary of the interior to fix the amount of compensation to be paid the Indians for such right of way and material, and provide the time and manner for the payment thereof, and also to ascertain and fix the amount of compensation to be made individual members of the tribe for damages sustained by them by reason of the construction of said road; but no right of any kind shall vest in said railroad company in or to any part of the right of way herein provided for until plats thereof, made upon actual survey for the definite location of such railroad, and including the points for station-building, depots, machine-shops, side-tracks, turn-outs, and water-stations, shall be filed with and approved by the secretary of the interior, which approval shall be made in writing and be open for the inspection of any party interested therein, and until the compensation aforesaid has been filed and paid; and the surveys, construction, and operation of such railroad shall be conducted with due regard for the rights of the Indians, and in accordance with such rules and regulations as the interior may make to carry out this provision: *Provided*, That the president of the United States may, in his discretion, require that the consent of the Indians to said right of way shall be obtained by said right of way shall be obtained by said railway company, in such manner as he may prescribe, before any right under this act shall accrue to said company.

SEC. 4. That said company shall not assign or transfer or mortgage this right of way for any purpose whatever until said road shall be completed: *Provided*, That the company may mortgage said franchise, together with the rolling-stock, for money to construct and complete said road: *And provided further*, That the right granted herein shall be lost and forfeited by said company unless the road is constructed and in running order within two years from the passage of this act: *And provided further*, That no part of said line shall touch any portion of the Yellowstone National Park

SEC. 5. That said railway company shall accept this right of way upon the expressed condition, binding upon itself, its successors, and assigns, that they will neither aid, assist, nor advise in any effort looking toward the changing or extinguishing the present tenure of the Indians in their land, and will not attempt to secure from the Indian tribes any further grant of land or its occupancy than is heretofore provided: *Provided*, That any violation of the condition mentioned in this section shall operate as a forfeiture of all the rights and privileges of said railway company under this act.

SEC. 6. That congress may any time amend, add to, alter, or repeal this act. That this act shall be force from its passage.

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Approved, June 4, 1888.

CHAP. 503.—An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes.

SEC. 11. Until otherwise provided by law, all that portion of what is known as the Blackfoot Indian Reservation in Montana territory, lying west of the one hundred and eighth meridian, added to the United States under an agreement with the several bands of Indians occupying the same, (which said agreement was ratified by act of Congress approved May first, eighteen hundred and eighty-eight), is hereby attached to and made a part of the county of Choteau, in said territory, and, until otherwise provided by law, all that portion of said reservation ceded under said agreement and lying east of the one hundred and eighth meridian, Montana, is hereby attached to and made part of the county of Dawson, in said territory. The laws of the territory of Montana now in force in the counties of Dawson and Choteau shall extend over and be in force in the portions of territory added to said counties, respectively.

CHAP. 743.—An act to authorize the construction of a bridge across the Missouri River in Montana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Benton Bridge Company, a corporation existing under the laws of the territory of Montana, and having authority to construct and maintain a bridge across the Missouri River at or near Fort Benton, in the county of Choteau in said territory, be, and is hereby, authorized to construct and maintain, for the purpose of making a more perfect crossing of said river at all times during the year, a bridge across the said Missouri River at or near said Fort Benton, to be used by the said company, its successors or assigns, for all purposes of rail and other transportation over said river.

SEC. 2. That any bridge built under this act shall be constructed and built without material interference with the security and convenience of navigation of said river beyond what is necessary to carry into effect the rights and privileges hereby granted. And in order to secure that object the said company or corporation shall submit to the secretary of war, for his examination and approval, a design and drawings of the bridge and of all accessory works for its protection, and a map of the location for the space of one-half mile above and the same below the proposed location, showing the topography of the banks of the river, the shore-line at high and low water, the direction and strength of the current at all stages, and the soundings, accurately showing the bed of the stream, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plan and location of the bridge are approved by the secre-

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tary of war the building of the bridge shall not be commenced; that the said bridge shall be at right angles to and the piers parallel with the current of said river; and if it be found hereafter that the said bridge or accessory works materially interfere with the security and convenience of navigation of said river beyond what is necessary to carry into effect the rights and privileges hereby granted, by reason of any defect or failure in the accessory works aforesaid to accomplish the purpose for which they are designed, it shall be the duty of the secretary of war to require the necessary changes to be made therein in the interest of navigation at the expense of the owners: *Provided*, That as to any bridge built under this act, if the said bridge shall be built of unbroken and contiuuous spans, it shall not be of less elevation in any case than fifty feet above extreme high water mark, as understood at the point of location, to the lowest part of the superstructure of the bridge, nor shall the spans of said bridge be less than one hundred and twenty feet in length, clear of the piers, and the main spans shall be over the main channel of the river: *And provided also*, That if any bridge built under the provisions of this act shall be constructed as a draw bridge, the same shall be constructed as a pivot draw bridge, with a draw over the main channel of the river at an accessible and navigable point, and with spans at any point not less than ten feet above extreme high-water mark at the point of location, and of not less than sixty feet on each side of the central or pivot pier of the draw; and the next adjoining spans shall be not less than one hundred and twenty feet in length: *Provided, also*, That said draw shall be opened promptly upon reasonable signal for the passing of boats; and said company shall maintain, at their own expense, from sunset to sunrise, such lights and other signals on said bridge as the Light-House Board may prescribe: *Provided, also*, that all railroad companies desiring to use said bridge shall have and be entitled to equal rights and privileges in the passage of the same, and in the use of the machinery and fixtures thereof, and of all the approaches thereto, under and upon such terms and conditions as shall be prescribed by the secretary of war upon hearing the allegations and proofs of the parties in case they shall not agree. The owners of said bridge may also charge and receive reasonable compensation or tolls for the transit over said bridge of all wagons, carriages, vehicles, animals and foot passengers: *Provided*, That the secretary of war may at any time prescribe such rules, regulations, and rates of toll for transit and transportation over said bridge as may be deemed proper and reasonable.

SEC. 3. That any bridge and accessory works, when built and constructed under this act and according to the terms and limitations thereof, shall be a lawful structure, and said bridge shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the

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mails, the troops, the munitions of war of the United States, than the rate per mile paid for the transportation over the railroads or public highways leading to said bridge; and said bridge shall enjoy the rights and privileges of other post-routes in the United States, and congress reserves the right to regulate by appropriate legislation the charges for freight and passengers over said bridge.

SEC. 4. That equal privileges in the use of said bridge shall be granted to all telegraph companies, and the United States shall have the right of way for postal telegraph across said bridge.

SEC. 5. That the right to alter, amend, or repeal this act is hereby expressly reserved, and the right to require any changes in the said structure or its entire removal at the expense of the owners thereof whenever secretary of war shall decide that the public interests require it is also expressly reserved.

SEC. 6. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from the date thereof.

Approved August 6, 1888.

CHAP. 47.—An act authorizing the Secretary of War to issue to the governor of the Territory of Montana military stores for the use of the regularly enlisted, organized, and uniformed active militia.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the secretary of war be, and he is hereby, authorized and directed to issue to the governor of the territory of Montana such additional arms, ordance stores, quartermaster's stores, and camp equipage as may be required to fully arm and equip the present regularly enlisted, organized, and uniformed active militia of said territory, consisting of seven general staff officers and the officers and men of one regiment of eight companies of infantry, two companies of cavalry, and one battery of artillery: *Provided*, That the amount to be expended under the provisions of this act shall not exceed the sum of thirty-three thousand eight hundred and sixty dollars and seventy-six cents, being the balance remaining charged against said territory on account of the sum of sixty-nine thousand two hundred and ninety-six dollars and seventy-seven cents, charged against said territory on account of the issuance of field artillery, arms, and so forth, in August, eighteen hundred and sixty seven; and to enable the secretary of war to carry out the provisions of this act said sum of thirty-three thousand eight hundred and sixty dollars and seventy-six cents is hereby appropriated out of any money in the treasury not otherwise appropriated: *And provided further*, That nothing herein shall affect the apportionment hereafter, to said territory, of arms, ordnance stores, quartermaster's stores, camp equipage, under existing laws and regulations: *And provided further*, That the military stores to be issued hereunder shall remain the property of the United States, and said governor shall be chargeable therewith as now provided by law.

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Approved, January 16, 1889.

CHAP. 134.—An act granting to the Big Horn Southern Railroad Company a right of way through a part of the Crow Indian reservation in Montana Territory.

*Be it, enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a right of way is hereby granted, as hereinafter set forth, to the Big Horn Southern railroad company, a corporation duly organized and existing under the laws of territory of Montana, for the construction, operation, and maintenance of its railroad, telegraph, and telephone line through the lands set apart for the use of the Crow Indians, and commonly known as the Crow Indian reservation, beginning at a point on the Northern Pacific railroad, in the vicinity of the mouth of the Big Horn river, in Yellowstone county, Montana territory; thence by the most practicable route up said Big Horn river to or near the mouth of the Little Big Horn river; thence up said Little Big Horn river to or near the mouth of Owl creek; thence up said creek to and across the southern boundary-line of said reservation.

SEC. 2. That the right of way hereby granted to said company shall be seventy-five feet in width on each side of the central line of said railroad, as aforesaid; and said company shall also have the right to take from said lands adjacent to the line of said road material, stone, earth, and timber necessary for the construction of said railroad; also ground adjacent to said right of way for station buildings, depots, machine shops, side-tracks, turn-outs, and water stations, not to exceed in amount three hundred feet in width and three thousand feet in length for each station, to the extent of one station for each ten miles of its road, except at the terminus of said road at a point on the Northern Pacific railroad in the vicinity of the mouth of the Big Horn river, Yellowstone county, Montana, and at such point not to exceed one hundred and sixty acres, or so much thereof as the secretary of the interior shall decide to be reasonably necessary for terminal facilities.

SEC. 3. That it shall be the duty of the secretary of the interior to fix the amount of compensation to be paid the Indians for such right of way, and grounds adjacent thereto, as provided in section two, and provide the time and manner for the payment thereof; and also to ascertain and fix the amount of compensation to be made individual members of the tribe for damages sustained by them by reason of the construction of said road; but no right of way shall vest in said railroad company in or to any of the right of way herein provided for until plats thereof, made upon actual survey for the definite location of such railroad, and including the points for station buildings, depots, machine-shops, side-tracks, turn-outs, and water-stations, shall be filed with and approved by the secretary of the interior, which approval shall be made in writing and be open for the inspection of any party interested therein, and

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until the compensation aforesaid has been fixed and paid; and the surveys, construction, and operation of such railroad shall be conducted with due regard for the rights of the Indians and in accordance with such rules and regulations as the secretary of the interior may make to carry out this provision: *Provided*, That the president of the United States may, in his discretion, require that the consent of the Indians to said right of way shall be obtained by by said railroad company, in such manner as he may prescribe, before any right under this act shall accrue to said company.

SEC. 4. That said company shall not assign or transfer or mortgage this right of way for any purpose whatever until said road shall be completed through that part of said reservation through which it shall be constructed: *Provided*, That the company may mortgage said franchise, together with the rolling stock, for money to construct and complete said road: *And provided further*, That the right granted herein shall be lost and forfeited by said company unless the road is constructed and in running order through said reservation on said line within two years from the passage of this act, or if the consent of the Indians is required under the terms of the proviso to section three of this act, then within two years from the date when said consent shall be obtained as provided in section three of this act.

SEC. 5. That the said railroad company shall accept this right of way upon the expressed condition, binding upon itself, its successors and assigns, that they will neither aid, advise, nor assist in any effort looking toward the changing or extinguishing the present tenure of the Indians in their land, and will not attempt to secure from the Indian tribes any further grant of land or its occupancy than is hereinbefore provided: *Provided*, That any violation of the condition mentioned in this section shall operate as a forfeiture of all the rights and privileges of said railroad company under this act.

SEC. 6. That said railway company shall have the right to survey and locate its road immediately after the passage of this act.

SEC. 7. That congress may at any time amend, add to, alter, or repeal this act.

Approved, February 12, 1889.

CHAP. 206.—An act granting to the Big Horn Southern Railroad Company a right of way across the Fort Custer Military Reservation, Montana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Big Horn Southern railroad company, a corporation duly organized and existing under the laws of the territory of Montana, be, and is hereby, granted a right of way across the Fort Custer military reservation upon such line, in the vicinity of the Big Horn and Little Big Horn rivers, as may be approved by the secretary of war:

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*Provided*, That the said right of way hereby granted shall not exceed one hundred feet in width, except where side-tracks, spurs, turn-tables, and a station are located or to be located; and at such point the right of way shall not exceed two hundred feet on each side of the main track and not exceeding two thousand feet in length.

Approved, February 23, 1889.

CHAP. 180.—An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the inhabitants of all that part of the area of the United States now constituting the territories of Dakota, Montana, and Washington, as at present described, may become the states of North Dakota, South Dakota, Montana, and Washington, respectively, as hereinafter provided.

SEC. 2. The area comprising the territory of Dakota shall, for the purposes of this act, be divided on the line of the seventh standard parallel produced due west to the western boundary of said territory; and the delegates elected as hereinafter provided to the constitutional convention in districts north of said parallel said assemble in convention, ar the time prescribed in this act, at the city of Bismarck; and the delegates elected in districts south of said parallel shall, at the same time, assemble in convention at the city of Sioux Falls.

SEC. 3. That all persons who are qualified by the laws of said territories to vote for representatives to the legislative assemblies thereof, are hereby authorized to vote for and choose delegates to form conventions in said proposed states; and the qualifications for delegates to such conventions shall be such as by the laws of said territories respectively persons are required to possess to be eligible to the legislative assemblies thereof; and the aforesaid delegates to form said conventions shall be apportioned within the limits of the proposed states, in such districts as may be established as herein provided, in proportion to the population in each of said counties and districts, as near as may be, to be ascertained at the time of making said apportionments by the persons hereinafter authorized to make the same, from the best information obtainable, in each of which districts three delegates shall be elected, but no elector shall vote for more than two persons for delegates to such conventions; that said apportionments shall be made by the governor, the chief-justice, and the secretary of said territories; and the governors of said territories shall, by proclamation, order an election of the delegates aforesaid in each of said proposed states, to be held on the Tuesday after the second Monday in May, eighteen hundred and eighty-nine, which proclamation shall be issued on the fifteenth day of

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April, eighteen hundred and eighty-nine; and such election shall be conducted, the returns made, the result ascertained, and the certificates to persons elected to such convention issued in the same manner as is prescribed by the laws of the said territories regulating elections therein for delegates to Congress; and the number of votes cast for delegates in each precinct shall also be returned. The number of delegates to said conventions respectively shall be seventy-five; and all persons resident in said proposed states, who are qualified voters of said territories as herein provided, shall be entitled to vote upon the election of delegates, and under such rules and regulations as said conventions may prescribe, not in conflict with this act, upon the ratification or rejection of the constitutions.

SEC. 4. That the delegates to the conventions elected as provided for in this act shall meet at the seat of government of each of said territories, except the delegates elected in South Dakota, who shall meet at the city of Sioux Falls, on the fourth day of July, eighteen hundred and eighty-nine, and, after organization, shall declare, on behalf of the people of said proposed states, that they adopt the constitution of the United States; whereupon the said conventions shall be, and are hereby, authorized to form constitutions and state governments for said proposed states, respectively. The constitution shall be republican in form, and make no distinction in civil or political rights on account of race or color, except as to Indians not taxed, and not to be repugnant to the constitution of the United States and the principles of the Declaration of Independence. And said conventions shall provide, by ordinances irrevocable without the consent of the United States and the people of said states:

First. That perfect toleration of religious sentiment shall be secured and that no inhabitant of said States shall ever be molested in person or property on account of his or her mode of religious worship.

Second. That the people inhabiting said proposed states do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without the said states shall never be taxed at a higher rate than lands belonging to residents thereof; that no taxes shall be imposed by the states on lands or property therein belonging to or which may hereafter be purchased by the United States or reserved for its use. But nothing herein, or in the ordinances herein provided for, shall preclude the said states from

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taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said states so long and to such extent as such act of congress may prescribe.

Third. That the debts and liabilities of said territories shall be assumed and paid by said states, respectively.

Fourth. That provision shall be made for the establishment and maintenance of systems of public schools, which shall be open to all the children of said states, and free from sectarian control.

SEC. 5. That the convention which shall assemble at Bismarck shall form a constitution and state government for a state to be known as North Dakota, and the convention which shall assemble at Sioux Falls shall form a constitution and state government for a state to be known as South Dakota: *Provided*, That at the election for delegates to the constitutional convention in South Dakota, as hereinbefore provided, each elector may have written or printed on his ballot the words "For the Sioux Falls constitution," or the words "Against the Sioux Falls constitution," and the votes on this question shall be returned and canvassed in the same manner as for the election provided for in section three of this act; and if a majority of all votes cast on this question shall be "for the Sioux Falls constitution," it shall be the duty of the convention which may assemble at Sioux Falls, as herein provided, to resubmit to the people of South Dakota, for ratification or rejection at the election hereinafter provided for in this act, the constitution framed at Sioux Falls and adopted November third, eighteen hundred and eighty-five, and also the articles and propositions separately submitted at that election, including the question of locating the temporary seat of government, with such changes only as relate to the name and boundary of the proposed state, to the re-apportionment of the judicial and legislative districts, and such amendments as may be necessary in order to comply with the provisions of this act; and if a majority of the votes cast on the ratification or rejection of the constitution shall be for the constitution irrespective of the articles separately submitted, the state of South Dakota shall be admitted as a state in the Union under said constitution as hereinafter provided; but the archives, records, and books of the territory of Dakota, shall remain at Bismarck, the capitol of North Dakota, until an agreement in reference thereto is reached by said states. But if at the election for delegates to the constitutional convention in South Dakota, a majority of all the votes cast at that election



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shall be "against the Sioux Falls constitution," then and in that event shall be the duty of the convention which will assemble at the the city of Sioux Falls on the fourth day of July, eighteen hundred and eighty-nine, to proceed to form a constitution and state government as provided in this act the same as if that question had not been submitted to a vote of the people of South Dakota.

SEC. 6. It shall be the duty of the constitutional conventions of North Dakota and South Dakota to appoint a joint commission to be composed of not less than three members of each convention, whose duty it shall be to assemble at Bismarck, the present seat of government of said territory, and agree upon an equitable division of all property belonging to the territory of Dakota, the disposition of all public records, and also adjust and agree upon the amount of the debts and liabilities of the territory, which shall be assumed and paid by each of the proposed states of North Dakota and South Dakota; and the agreement reached respecting the territorial debts and liabilities shall be incorporated in the respective constitutions, and each of said states shall obligate itself to pay its proportion of such debts and liabilities the same as if they had been created by such states respectively.

SEC. 7. If the constitutions formed for both North Dakota and South Dakota shall be rejected by the people at the elections for the ratification or rejection of their respective constitutions as provided for in this act, the territorial government of Dakota shall continue in existence the same as if this act had not been passed. But if the constitution formed for either North Dakota or South Dakota shall be rejected by the people, that part of the country so rejecting its proposed constitution shall continue under the territorial government of the present territory of Dakota, but shall, after the state adopting its constitution is admitted into the Union, be called by the name of the territory of North Dakota or South Dakota, as the case may be: *Provided*, That if either of the proposed states provided for in this act shall reject the constitution which may be submitted for ratification or rejection at the election provided therefor, the governor of the territory in which such proposed constitution was rejected shall issue his proclamation reconvening the delegates elected to the convention which formed such rejected constitution, fixing the time and place at which said delegates shall assemble; and when so assembled they shall proceed to form another constitution or to amend the rejected constitution, and shall submit such new constitution or amended constitution to the people of the proposed state for ratification or rejection, at such time as said convention may determine; and all the provisions of this act, so far as applicable, shall apply to such convention so reassembled and to the constitution which may be formed, its ratification or rejection, and to the admission of the proposed state.

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SEC. 8. That the constitutional convention which may assemble in South Dakota shall provide by ordinance for resubmitting the Sioux Falls constitution of eighteen hundred and eighty-five, after having amended the same as provided in section five of this act, to the people of South Dakota for ratification or rejection at an election to be held therein on the first Tuesday in October, eighteen hundred and eighty-nine; but if said constitutional convention is authorized and required to form a new constitution for South Dakota it shall provide for submitting the same in like manner to the people of South Dakota for ratification or rejection at an election to be held in said proposed state on the said first Tuesday in October. And the constitutional conventions which may assemble in North Dakota, Montana, and Washington shall provide in like manner for submitting the constitutions formed by them to the people of said proposed states, respectively, for ratification or rejection at elections to be held in said proposed states on the said first Tuesday in October. At the elections provided for in this section the qualified voters of said proposed states shall vote directly for or against the proposed constitutions, and for or against any articles or propositions separately submitted. The returns of said elections shall be made to the secretary of each of said territories, who, with the governor and chief-justice thereof, or any two of them, shall canvass the same; and if a majority of the legal votes cast shall be for the constitution the governor shall certify the result to the president of the United States, together with a statement of the votes cast thereon and upon separate articles or propositions, and a copy of said constitution, articles, propositions, and ordinances. And if the constitutions and governments of said proposed states are republican in form, and if all the provisions of this act have been complied with in the formation thereof, it shall be the duty of the president of the United States to issue his proclamation announcing the result of the election in each, and thereupon the proposed states which have adopted constitutions and formed state governments as herein provided shall be deemed admitted by congress into the Union under and by virtue of this act on an equal footing with the original states from and after the date of said proclamation.

SEC. 9. That until the next general census, or until otherwise provided by law, the states shall be entitled to one representative in the house of representatives of the United States, except South Dakota, which shall be entitled to two; and the representatives to the fifty-first congress, together with the governor and other officers provided for in said constitutions, may be elected on the same day of the election for the ratification or rejection of the constitutions; and until said state officers are elected and qualified under the provisions of each constitution and the states, respectively, are admitted into the Union, the territorial officers shall continue to discharge the duties of their respective offices in each of said territories.

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SEC. 10. That upon the admission of each of said states into the Union sections numbered sixteen and thirty-six in every township of said proposed states, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken are hereby granted to said states for the support of common schools, such indemnity lands to be selected within said states in such manner as the legislature may provide, with the approval of the secretary of the interior: *Provided*, That the sixteenth and and thirty-sixth sections embraced in permanent reservations for national puposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such land be restored to, and become a part of, the public domain.

SEC. 11. That all lands herein granted for educational purposes shall be disposed of only at public sale, and at a price not less than ten dollars per acre, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislatures shall prescribe, be leased for periods of not more than five years, in quantities not exceeding one section to any one person or company; and such lands shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 12. That upon the admission of each of said states into the Union, in accordance with the provisions of this act, fifty sections of the unappropriated public lands within said states, to be selected and located in legal subdivisions as provided in section ten of this act, shall be, and are hereby, granted to said states for the purpose of erecting public buildings at the capital of said states for legislative, executive, and judicial purposes.

SEC. 13. That five per centum of the proceeds of the sales of public lands lying within said states which shall be sold by the United States subsequent to the admission of said states into the Union, after deducting all the expenses incident to the same, shall be paid to the said states, to be used as a permanent fund, the interest of which only shall be expended for the support of common schools within said states, respectively.

SEC. 14. That the lands granted to the territories of Dakota and Montana by the act of February eighteenth, eighteen hundred and eighty-one, entitled "an act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes," are hereby

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vested in the states of South Dakota, North Dakota, and Montana, respectively, if such states are admitted into the Union, as provided in this act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have been selected by either of said territories of Dakota or Montana may be selected by the respective states aforesaid; but said act of February eighteenth, eighteen hundred and eighty-one, shall be so amended as to provide that none of said lands shall be sold for less than ten dollars per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said states severally, and the income thereof to be used exclusively for university purposes. And such quantity of the lands authorized by the fourth section of the act of July seventeenth, eighteen hundred and fifty-four, to be reserved for university purposes in the territory of Washington, as, together with the lands confirmed to the vendees of the territory by the act of March fourteenth, eighteen hundred and sixty-four, will make the full quantity of seventy-two entire sections, are hereby granted in the like manner to the state of Washington for the purposes of a university in said state. None of the lands granted in this section shall be sold at less than ten dollars per acre; but said lands may be leased in the same manner as provided in section eleven of this act. The schools, colleges, and universities provided for in this act shall forever remain under the exclusive control of the said states, respectively, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university. The section of land granted by the act of June sixteenth, eighteen hundred and eighty, to the territory of Dakota, for an asylum for the insane shall, upon the admission of said state of South Dakota into the Union, become the property of said state.

SEC. 15. That so much of the lands belonging to the United States as have been acquired and set apart for the purpose mentioned in "an act appropriating money for the erection of a penitentiary in the territory of Dakota," approved March second, eighteen hundred and eighty-one, together with the buildings thereon, be, and the same is hereby, granted, together with any unexpended balances of the moneys appropriated therefor by said act, to said state of South Dakota, for the purposes therein designated; and the states of North Dakota and Washington shall, respectively, have like grants for the same purpose, and subject to like terms and conditions as provided in said act of March second, eighteen hundred and eighty-one, for the territory of Dakota. The penitentiary at Deer Lodge city, Montana, and all lands connected therewith and set apart and reserved therefor, are hereby granted to the state of Montana.

SEC. 16. That ninety thousand acres of land, to be selected and located as provided in section ten of this act, are hereby granted to

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each of said states, except to the state of South Dakota, to which one hundred and twenty thousand acres are granted, for the use and support of agricultural colleges in said states, as provided in the acts of congress making donations of lands for such purpose.

SEC. 17. That in lieu of the grant of land for purposes of internal improvement made to new states by the eight section of the act of September fourth, eighteen hundred and forty-one, which act is hereby repealed as to the states provided for by this act, and in lieu of any claim or demand by the said states, or either of them, under the act of September twenty-eight, eighteen hundred and fifty, and section twenty-four hundred and seventy-nine of the revised statutes, making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the states provided for in this act, and in lieu of any grant of saline land to said states, the following grants of land are hereby made, to wit:

To the state of South Dakota: For the school of mines, forty thousand acres; for the reform school, forty thousand acres; for the deaf and dumb asylum, forty thousand acres; for the agricultural college, forty thousand acres; for the university, forty thousand acres; for state normal schools, eighty thousand acres; for public buildings at the capital of said state, fifty thousand acres, and for such other educational and charitable purposes as the legislature of said state may determine, one hundred and seventy thousand acres; in all five hundred thousand acres.

To the state of North Dakota, a like quantity of land as is in this section granted to the state of South Dakota, and to be for like purposes, and in like proportion as far as practicable.

To the state of Montana: For the establishment and maintenance of a school of mines, one hundred thousand acres; for state normal schools, one hundred thousand acres; for agricultural colleges, in addition to the grant hereinbefore made for that purpose, fifty thousand acres; for the establishment of a state reform school, fifty thousand acres; for the establishment of a deaf and dumb asylum, fifty thousand acres; for public buildings at the capital of the state, in addition to the grant hereinbefore made for that purpose, one hundred and fifty thousand acres.

To the state of Washington: For the establishment and maintenance of a scientific school, one hundred thousand acres; for state normal schools, one hundred thousand acres; for public buildings at the state capital, in addition to the grant hereinbefore made for that purpose, one hundred thousand acres; for state charitable, educational, penal, and reformatory institutions, two hundred thousand acres.

That the states provided for in this act shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section

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shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislatures of the respective states may severally provide.

SEC. 18. That all mineral lands shall be exempted from the grants made by this act. But if sections sixteen and thirty-six, or any subdivision or portion of any smallest subdivision thereof in any township shall be found by the department of the interior to be mineral lands, said states are hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said states, in lieu thereof, for the use and benefit of the common schools of said states.

SEC. 19. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior, from the surveyed, unreserved and unappropriated public lands of the United States within the limits of the respective states entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said states the number of acres in each heretofore donated by congress to said territories for similar objects.

SEC. 20. That the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to each of said territories for defraying the expenses of the said conventions, except to Dakota, for which the sum of forty thousand dollars is so appropriated, twenty thousand each for South Dakota and North Dakota, and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

SEC. 21. That each of said states, when admitted as aforesaid, shall constitute one judicial district, the names thereof to be the same as the names of the states, respectively; and the circuit and district courts therefor shall be held at the capital of such state for the time being, and each of said districts shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit, except Washington and Montana, which shall be attached to the ninth judicial circuit. There shall be appointed for each of said districts one district judge, one United States attorney, and one United States marshal. The judge of each of said districts shall receive a yearly salary of three thousand five hundred dollars, payable in four equal installments, on the first days of January, April, July, and October of each year, and shall reside in the district. There shall be appointed clerks of said courts in each district, who shall keep their offices at the capital of said state. The regular terms of said courts shall be held in each district, at the place aforesaid, on the first Monday in April and the first Monday in Novem-

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ber of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for each of said districts, and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district courts of each of said districts, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the state of Nebraska.

SEC. 22. That all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of either of the territories mentioned in this act, or that may hereafter lawfully be prosecuted upon any record from either of said courts may be heard and determined by said supreme court of the United States. And the mandate of execution or of further proceedings shall be directed by the supreme court of the United States to the circuit or district court hereby established within the state succeeding the territory from which such record is or may be pending, or to the supreme court of such state, as the nature of the case may require: *Provided*, That the mandate of execution or of further proceedings shall, in cases arising in the territory of Dakota, be directed by the supreme court of the United States to the circuit or district court of the district of South Dakota, or to the supreme court of the state of South Dakota, or to the circuit or district court of the district of North Dakota, or to the supreme court of the state of North Dakota, or to the supreme court of the territory of North Dakota, as the nature of the case may require. And each of the circuit, district, and state courts, herein named, shall, respectively, be the successor of the supreme court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts respectively with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of either of the territories mentioned in this act, in any case arising within the limits of any of the proposed states prior to admission, the parties to said judgment shall have the same right to prosecute appeals and writs of error to the supreme court of the United States as they shall have had by law prior to the admission of said state into the Union

SEC. 23. That in respect to all cases, proceedings, and matters now pending in the supreme or districts courts of either of the territories mentioned in this act at the time of the admission into the

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Union of either of the states mentioned in this act, and arising within the limits of any such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said territory; and in respect to all other cases, proceedings and matters pending in the supreme or district courts of any of the territories mentioned in this act at the time of the admission of such territory into the Union, arising within the limits of said proposed state, the courts established by such state shall, respectively, be the successors of said supreme and district territorial courts; and all the files, records, indictments, and proceedings relating to any such cases, shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause or proceeding now pending, or that prior to the admission of any of the states mentioned in this act, shall be pending in any territorial court in any of the territories mentioned in this act, shall abate by the admission of any such state into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district or state court, as the case may be: *Provided, however*, That in all civil actions, causes, and proceedings, in which the United States is not a party, transfer shall not be made to the circuit and district courts of the United States, except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper state courts.

SEC. 24. That the constitutional conventions may, by ordinance, provide for the election of officers for full state governments, including members of the legislatures and representatives in the fifty-first congress; but said state governments shall remain in abeyance until the states shall be admitted into the Union, respectively, as provided by this act. In case the constitution of any of said proposed states shall be ratified by the people, but not otherwise, the legislature thereof may assemble, organize, and elect two senators of the United States; and the governor and secretary of state of such proposed state shall certify the election of the senators and representatives in the manner required by law; and when such state is admitted into the Union, the senators and representatives shall be entitled to be admitted to seats in congress, and to all the rights and privileges of senators and representatives of other states in the congress of the United States; and the officers of the state governments formed in pursuance of said constitutions, as provided by the constitutional conventions, shall proceed to exercise all the functions of such state officers; and all laws in force made by said territories, at the time of their admission into the Union, shall be in

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force in said states, except as modified or changed by this act or by the constitutions of the states, respectively.

SEC. 25. That all acts or parts of acts in conflict with the provisions of thts act, whether passed by the legislatures of said territories or by congress, are hereby repealed.

Approved, February 22, 1889.

CHAP. 391.—An act to provide for the sale of lands patented to certain members of the Flathead band of Indians in Montana Territory, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the secretary of the interior, with the consent of the Indians severally, to whom patents have been issued for lands assigned to them in the Bitter Root valley, in Montana territory, under the provisions of an act of congress approved June fifth, eighteen hundred and seventy-two, entitled "An act to provide for the removal of the Flathead and other Indians from the Bitter Root valley, in the territory of Montana" or the heirs at law of such Indians, be, and he hereby is, authorized to cause to be appraised and sold, in tracts not exceeding one hundred and sixty acres, all the lands allotted and patented to said Indians; said lands shall be appaised as if in a state of nature, but the enhanced value thereof, by virtue of the settlement and improvement of the surrounding country, shall be considered in ascertaining their value: *Provided*, That the improvements thereon shall be appraised separate and distinct from land: *Provided further*, That where any such patentee has died leaving no heirs, the lands and improvements of such deceased patentee shall be appraised and sold in like manner for the common benefit of the tribe to which said patentee belonged.

SEC. 2. That after the appraisement herein authorized shall have been completed, and after due notice, the secretary of the interior shall offer said lands for sale through the proper land-office, in tracts not exceeding one hundred and sixty acres, which shall be the limit of the amount any one person shall be allowed to purchase, except in cases, if any, where a tract contains a fractional excess over one hundred and sixty acres to the highest bidder: *Provided*, That no portion of said lands shall be sold at less than the appraised value thereof: *Provided*, That the said secretary may dispose of the same on the following terms as to payment, that is to say, one-third of the price of any tract of land sold under the provisions of this act to be paid by the purchaser on the day of sale, one-third in one year, and one-third in two years from said date, with interest on the deferred payments at the rate of five per centum per annum; but in case of default in either of said payments, or the interest thereon, the person so defaulting for a period of sixty days shall forfeit absolutely the right to the tract which he has purchased, with any payment or payments he may have made; and the land thus forfeited shall again be sold as in the first instance:

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*Provided further*, That before the second or any subsequent payment shall be received, the purchaser shall prove to the satisfaction of the land office that he is actually residing upon the tract of land so purchased, and that he is entitled under the laws of United States to the benefit of the homestead laws.

SEC. 3. That the net proceeds derived from the sale of the lands herein authorized shall be placed in the treasury to the credit of the Indians severally entitled thereto, and the secretary of the interior is hereby authorized to pay the same in cash to original allotters and patentees, or the heirs at law of such, or expend the same for their benefit in such manner as he may deem for their best interest.

SEC. 4. That when a purchaser shall have made full payment for a tract of land, as herein provided, and for the improvements thereon, patent shall be issued as in case of public lands under the homestead and pre-emption laws.

SEC. 5. That for the purpose of carrying out the provisions of this act there be, and hereby is, appropriated, out of any money in the treasury not otherwise appropriated, the sum of five hundred dollars, or so much thereof as may be necessary, which sum shall be reinbursed pro rata out of the proceeds of the sale of the lands herein authorized.

SEC. 6. That in the event of the sale of the lands herein authorized it shall be the duty of the secretary of the interior to remove the Indians whose lands shall have been sold to the general reservation, known as the Jocko reservation, in the territory of Montana.

SEC. 7. That all acts and parts of acts in conflict herewith are hereby repealed.

Approved, March 2, 1889.

CHAP. 217.—An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget's Sound, on the Pacific Coast, by the northern route.

*Be it, enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Richard D. Rice, John A. Poore, Samuel P. Strickland, Samuel C. Fessenden, Charles P. Kimball, Augustine Haines, Edwin R. W. Wiggin, Anson P. Morrill, Samuel J. Anderson, of Maine; Willard Sears, I. S. Withington, Josiah Perham, James M. Becket, A. W. Banfield, Abiel Abbott, John Newell, Austin L. Rogers, Nathaniel Greene, Jr., Oliver Frost, John A. Bass, John O. Bresbrey, George Shiverick, Edward Tyler, Filander J. Forristall, Ivory H. Pope, of Massachusetts; George Opdyke, Fairley Holmes, John Huggins, Philander Reed, George Briggs, Chauncy Vibbard, John C. Fremont, of New York; Ephraim Marsh, John P. Jackson, Jr., of New Jersey; S. M. Felton, John Toy, O. J. Dickey, B. F. Archer, G. W. Cass, J. Edgar Thompson, John A. Green, of Pennsylania;

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T. M. Allyn, Moses W. Wilson, Horace Whittaker, Ira Bliss, of Connecticut; Joseph A. Gilmore, Onslow Stearns, E. P. Emerson, Frederick Smyth, William E. Chandler, of New Hampshire; Cyrus Aldrich, H. M. Rice, John McKusick, H. C. Waite, Stephen Miller, of Minnesota; E. A. Chapin, John Gregory Smith, George Merrill, of Vermont; James Y. Smith, William S. Slater, Isaac H. Southwick, Earl P. Mason, of Rhode Island; Seth Fuller, William Kellogg, U. S. Grant, William B. Ogden, William G. Greene, Leonard Sweat, Henry W. Blodgett, Porter Sheldon, of Illinois; J. M. Winchell, Elsworth Cheesebrough, James S. Emery, of Kansas, Richard F. Perkins, Richard Chenery, Samuel Brannan, George Rowland, Henry Platt, of California; William F. Mercer, James W. Brownley, of Virginia; John H. B. Latrobe, W. Prescott Smith, of Maryland; Greenbury Slack, A. J. Boreman, of West Virginia; Thomas E. Bramlette, Frank Shorin, of Kentucky; John Brough, John A. Bingham, Oran Follett, John Gardner, S. S. L'Hommedieu, Harrison G. Blake, Philo Chamberlin, of Ohio; John A. Duncan, Samuel M. Harrington, of Delaware; Thomas A. Morris, Jesse L. Williams, of Indiana; Samuel L. Case, Henry L. Hall, David H. Jerome, Thomas D. Gilbert, C. A. Trowbridge, of Michigan; Edward H. Broadhead, Alexander Mitchell, Benjamin Ferguson, Levi Sterling, ——— Marshall, of Wisconsin; J. C. Ainsworth, Orlando Humason, H. W. Corbett, Henry Failing, of Oregon; J. B. S. Todd, M. K. Armstrong, J. Shaw Gregory, J. Le Berg, of Dakota Territory; John Mullen, Anson G. Henry, S. D. Smith, Charles Terry, of Washington Territory; H. W. Starr, Platt Smith, Nixon Denton, William Leighton, B. F. Allen, Reuben Noble, John L. Davies, of Iowa; Willard P. Hall, George R. Smith, H. Gayle King, John C. Sergeant, of Missouri; William H. Wallace, of Idaho Territory; J. H. Lathrop, Henry D. Cook, H. E. Merrick, of the District of Columbia, and all such other persons who shall or may be associated with them, and their successors, are hereby created and erected into a body corporate and politic, in deed and in law, by the name, style and title of the "Northern Pacific Railroad Company," and by that name shall have perpetual succession, and shall be able to sue and to be sued, plead and be impleaded, defend and be defended, in all courts of law and equity within the United States, and may make and have a common seal. And said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph line, with the appurtenances, namely, beginning at a point on Lake Superior, in the state of Minnesota or Wisconsin; thence westerly by the most eligible railroad route, as shall be determined by said company, within the territory of the United States, on a line north of the forty-fifth degree of latitude to some point on Puget's Sound, with a branch, via the valley of the Columbia river, to a point at or near Portland, in the state of Oregon, leaving the main trunk-line at the most suitable place,

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not more than three hundred miles from its western terminus; and is hereby vested with all the powers, privileges, and immunities necessary to carry into effect the purposes of this act as herein set forth. The capital stock of said company shall consist of one million shares of one hundred dollars each, which shall in all respects be deemed personal property, and shall be transferable in such manner as the by-laws of said corporation shall provide. The persons hereinbefore named are hereby appointed commissioners, and shall be called the board of commissioners of the "Northern Pacific Railroad Company," and fifteen shall constitute a quorum for the transaction of business. The first meeting of said board of commissioners shall be held at the Melodion hall, in the city of Boston, at such time as any five commissioners herein named from Massachusetts shall appoint, not more than three months after the passage of this act, notice of which shall be given by them to the other commissioners by publishing said notice in at least one daily newspaper in the cities of Boston, New York, Philadelphia, Cincinnati, Milwaukee, and Chicago, once a week at least four weeks previous to the day of meeting. Said board shall organize by the choice from its number of a president, vice-president, secretary, and treasurer, and they shall require from said treasurer such bonds as may be deemed proper, and may from time to time increase the amount thereof as they may deem proper. The secretary shall be sworn to the faithful performance of his duties, and such oath shall be entered upon the records of the company, signed by him, and the oath verified thereon. The president and secretary of said board shall be in like manner call all other meetings, naming the time and place thereof. It shall be the duty of said board of commissioners to open books, or cause books to be opened, at such times and in such principal cities, or other places in the United States, as they, a quorum of them, shall determine, within six months after the passage of this act, to receive subscriptions to the capital stock of said corporation, and a cash payment of ten per centum on all subscriptions and to receipt therefor. So soon as twenty thousand shares shall in good faith be subscribed for, and ten dollars per share actually paid into the treasury of the company, the said president and secretary of said board of commissioners shall appoint a time and place for the first meeting of the subscribers to the stock of said company, and shall give notice thereof in at least one newspaper in each state in which subscription books have been opened, at least fifteen days previous to *to* the day of meeting, and such subscribers as shall attend the meeting so called, either in person or by lawful proxy, then and there shall elect by ballot thirteen directors for said corporation; and in such election each share of said capital stock shall entitle the owner thereof to one vote. The president and secretary of the board of commissioners, and, in case of their absence or inability, any two of the officers of said board shall act as inspectors of said election, and shall certify, un-

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der their hands, the names of the directors elected at said meeting; and the said commissioners, treasurer and secretary shall then deliver over to said directors all the properties, subscription books and other books in their possession, and thereupon the duties of said commissioners, and the officers previously appointed by them, shall cease and determine forever, and thereafter the stockholders shall constitute said body politic and corporate. Annual meetings of the stockholders of the said corporation for the choice of officers (when they are to be chosen) and for the transaction of business, shall be holden at such time and place and upon such notice as may be prescribed in the by-laws.

SEC. 2. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said "Northern Pacific Railroad Company," ts successors and assigns, for the construction of a railroad and telegraph as proposed; and the right, power and authority is hereby given to said corporation to take from the public lands adjacent to the line of said road, materials of earth, stone, timber, and so forth, for the construction thereof. Said way is granted to said railroad to the extent of two hundred feet in width on each side of said railroad where it may pass through the public domain, including all necessary ground for station buildings, workshops, depots, machine shops, switches, side tracks, turn-tables and water stations; and the right of way shall be exempt from taxation within the territories of the United States. The United States shall extinguish, as rapidly as may be consistent with the public policy and the welfare of the said Indians, the Indian titles to all lands falling under the operation of this act, and acquired in the donation to the [road] named in this bill.

SEC. 3. *And be it further enacted*, That there be, and hereby is, granted to the "Northern Pacific Railroad Company," its successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line to the Pacific coast, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the route of said line of railway, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile, on each side of said railroad line, as said company may adopt, through the territories of the United States, and ten alternate sections of land per mile on each side of said railroad, whenever it passes through any state, and whenever on the line thereof, the United States have full title, not reserved, sold, granted, or otherwise appropriated, and free from pre-emption or other claims or rights at the time the line of said road is definitely fixed, and a plat thereof filed in the office of the commissiner of the general land office: and whenever, prior to said time, any of said sections or parts of sections shall have been granted, sold, reserved, occupied by home-

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stead settlers, or pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the secretary of the interior in alternate sections and designated by odd numbers, not more than than ten miles beyond the limits of said alternate sections: *Provided*, That if said route shall be found upon the line of any other railroad route to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act: *Provided further*, That the railroad company rceeiving the previous grant of land may assign their interest to said "Northern Pacific Railroad Company," or may consolidate, confederate, and associate with said company upon the terms named in the first section of this act: *Provided, further*, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantitity of unoccupied and unappropriated agricultural lands, in odd numbered sections, nearest to the line of said road may be selected as above provided: *And provided further*, That the word "mineral," when it occurs in this act, shall not be held to include iron or coal: *And provided further*, That no money shall be drawn from the treasury of the United States to aid in the construction of the said "Northern Pacific Railroad."

SEC. 4. *And be it further enacted*, That whenever said "Northern Pacific Railroad Company" shall have twenty-five consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the president of the United States shall appoint three commissioners to examine the same, and if it shall appear that twenty-five consecutive miles of said road and telegraph line have been completed in a good, substantial, and workmanlike manner, as in all other respects required by this act, the commissioners shall so report to the president of the United States and patents of lands, as aforesaid, shall be issued to said company, confirming to said company the right and title to said lands, situated opposite to, and coterminous with, said completed section of said road; and, from time to time, whenever twenty-five additional consecutive miles shall have been constructed, completed and in readiness as aforesaid, and verified by said commissioners to the president of the United States, then patents shall be issued to said company conveying the additional sections of land as aforesaid, and so on as fast as every twenty-five miles of said road is completed as aforesaid: *Provided*, That not more than ten sections of land per mile, as said road shall be completed, shall be conveyed to said company for all thst part of said railroad lying east of the western boundary of the state of Minnesota, until the whole of said railroad shall be finished and in good rnnning order, as a first-class railroad from the place of beginning on Lake Superior to the western boundary of Minnesota: *Provided also*, That lands

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shall not be granted under the provisions of this act on account of any railroad or part thereof constructed at the date of the passage of this act.

SEC. 5. *And be it further enacted*, That said "Northern Pacific Railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turnouts, stations, and watering places, and all other appurtenances, including furniture and rolling stock, equal in all respects to railroads of the first class, when prepared for business, with rails of the best quality, manufactured from American iron. And a uniform gauge shall be established throughout the entire length of the road. And there shall be constructed a telegraph line of the most substantial and improved description, to be operated along the entire line: *Provided*, That the said company shall not charge the government higher rates than they do individuals for like transportation and telegraphic service. And it shall be the duty of the Northern Pacific Railroad Company to permit any other railroad which shall be authorized to be built by the United States, or by the legislature of any territory or state in which the same may be situated, to form running connections with it on fair and equitable terms.

SEC. 6. *And be it further enacted*, That the president of the United States shall cause the lands to be surveyed for forty miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of said railroad; and the odd sections of land hereby granted shall not be liable to sale, or entry, or pre-emption before or after they are surveyed, except by said company as provided in this act; but the provisions of the act of September, eighteen hundred and forty-one, granting pre-emption rights, and the acts amendatory thereof, and of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May twenty, eighteen hundred and sixty-two, shall be, and the same are hereby, extended to all other lands on the line of said road, when surveyed, excepting those hereby granted to said company. And the reserved alternate sections shall not be sold by the government at a price less than two dollars and fifty cents per acre when offered for sale.

SEC. 7. *And be it further enacted*, That the said "Northern Pacific Railroad Company" be, and is hereby authorized and empowered to enter upon, purchase, take, and hold any lands or premises that may be necessary and proper for the construction and working of said road, not exceeding in width two hundred feet on each side of the line of its railroad, unless a greater width be required for the purpose of excavation or embankment; and also any lands or premises that may be necessary and proper for turnouts, standing places for cars, depots, station houses, or any other

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structures required in the construction and working of said road. And the said company shall have the right to cut and remove trees and other material that might, by falling, encumber its road-bed, though standing or being more than two hundred feet from the line of said road. And in case the owner of such lands or premises and the said company cannot agree as to the value of premises taken, or to be taken, for the use of said road, the value thereof shall be determined by the appraisal of three disinterested commissioners, who may be appointed, upon application of either party, to any court of record in any of the territories in which the lands or premises to be taken lie; and said commissioners, in their assessment of damages, shall appraise such premises at what would have been the value thereof if the road had not been built. And upon return into court of such appraisement, and upon the payment into the same of the estimated value of the premises taken for the use and benefit of the owner thereof, said premises shall be deemed to be taken by said company, which shall thereby acquire full title to the same for the purposes aforesaid. And either party feeling aggrieved at said appraisement may, within thirty days after the same has been returned into court, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such appeal shall not interfere with the rights of said company to enter upon the premises taken, or to do any act necessary and proper in the construction of its road. And said party appealing shall give bonds, with sufficient surety or sureties, for the payment of any cost that may arise upon such appeal; and in case the party appealing does not obtain a verdict, increasing or diminishing, as the case may be, the award of the commissioners, such party shall pay the whole cost incurred by the appellee as well as his own, and the payment into court, for the use of the owner of said premises taken, of a sum equal to that finally awarded, shall be held to vest in said company the title of said land, and of the right to use and occupy ihe same for the construction, maintenance and operation of said road. And in case any of the lands to be taken, as aforesaid, shall be held by any infant, *femme covert*, *non compos*, insane person, or other persons residing without the territory within which the lands to be taken lie, or persons subjected to any legal disability, the court may appoint a guardian for any party under any disqualification, to appear in proper person, who shall give bonds, with sufficient surety or sureties, for the proper and faithful execution of his trust, and who may represent in court the persou disqualified, as aforesaid, from appearing, when the same proceedings shall be had in reference to the appraisement of the premises to be taken for the use of said company, and with the same effect as has been already described: and the title of the company to the lands taken by virtue of this act shall not be affected or impaired by reason of any failure by any guardian to discharge faithfully his trust.



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And in case any party shall have a right or claim to any land for a term of years, or any interest therein, in possession, reversion, or remainder, the value of any such estate, less than a fee simple, shall be estimated and determined in the manner hereinbefore set forth. And in case it shall be necessary for the company to enter upon any lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purposes of said railroad, and may institute proceedings, in manner described, for the purpose of ascertaining the value of, and of acquiring title to, the same; but the judge of the court hearing said suit shall determine the kind of notice to be served on such owner or owners, and he may in its discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or non-appearance. But in case no claimant shall appear within six years from the time of the opening of said road across any land, all claims to damage against said company shall be barred.

SEC. 8. *And be it further enacted*, That each and every grant, right and privilege herein are so made and given to, and accepted by, said Northern Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the president, and shall complete not less than fifty miles per year after the second year, and shall construct, equip, furnish, and complete the whole road by the fourth day of July, Anno Domini eighteen hundred and seventy-six.

SEC. 9. *And be it further enacted*, That the United States make the several conditional grants herein, and that the said Northern Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upwards of one year, then in such case, at any time hereafter, the United States, by its congress, may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road.

SEC. 10. *And be it further enacted*, That all people of the United States shall have the right to subscribe to the stock of the Northern Pacific Railroad Company until the whole capital named in this act of incorporation is taken up, by complying with the terms of subscription; and no mortgage or construction bonds shall ever be issued by said company on said road, or mortgage or lien made in any way except by the consent of the congress of the United States.

SEC. 11. *And be it further enacted*, That said Northern Pacific Railroad, or any part thereof, shall be a post route and a military road, subject to the use of the United States, for postal, mili-

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tary, naval, and all other government service, and also subject to such regulations as congress may impose restricting the charges for such government transportation.

SEC. 12. *And be it further enacted*, That the acceptance of the terms, conditions, and impositions of this act by the said Northern Pacific Railroad Company shall be signified in writing under the corporate seal of said company, duly executed pursuant to the direction of its board of directors first had and obtained, which acceptance shall be made within two years after the passage of this act; and not afterwards, and shall be served on the president of the United States.

SEC. 13. *And be it further enacted*, That the directors of said company shall make an annual report of their proceedings and expenditures, verified by the affidavits of the president and at least six of the directors; and they shall from time to time fix, determine and regulate the fares, tolls and charges to be received and paid for transportation of persons and property on said road, or any part thereof.

SEC. 14. *And be it further enacted*, That the directors chosen in pursuance of the first section of this act shall, so soon as may be after their election, elect from their own number a president and vice-president; and said board of directors shall, from time to time, and so soon as may be after their election, choose a treasurer and a secretary, who shall hold their offices at the will and pleasure of the board of directors. The treasurer and secretary shall give such bonds, with such security, as the said board fom time to time may require. The secretary shall, before entering upon his duty, be sworn to the faithiul discharge thereof, and said oath shall be made a matter of record upon the books of said corporation. No person shall be a director of said company unless he shall be a stockholder, and qualified to vote for directors at the election at which he shall be chosen.

SEC. 15. *And be it further enacted*, That the president, vice-president, and directors shall hold their offices for the period indicated in the by-laws of said company, not exceeding three years, respectively, and until others are chosen in their place, and qualified. In case it shall so happen that an election of directors shall not be made on any day appointed by the by-laws of said company, the corporation shall not for that excuse be deemed to be dissolved, but such election may be holden on any day which shall be appointed by the directors. The directors, of whom seven, including the president, shall be a quorum for the transaction of business, shall have full power to make and prescribe such by-laws, rules and regulations as they shall deem needful and proper, touching the disposition and management of the stock, property, estate, and effects, of the company, the transfer of shares, the duties and conduct of their officers and servants touching the election and

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meeting of the directors, and all matters whatsoever which may appertain to the concerns of said company; and the said board of directors may have full power to fill any vacancy or vacancies that may occur from any cause or causes from time to time in their said board. And the said board of directors shall have power to appoint such engineers, agents, and subordinates as may from time to time be necessary to carry into effect the object of the company, and to do all acts and things touching the location and construction of said road.

SEC. 16. *And be it further enacted*, That it shall be lawful for the directors of said company to require payment of the sum of ten per centum cash assessment upon all subscriptions received of all subscribers, and the balance thereof at such time and in such proportions and on such conditions as they shall deem to be necessary to complete the said road and telegraph line within the time in this act prescribed. Sixty days' previous notice shall be given of the payments required, and of the time and place of payment, by publishing a notice once a week in one daily paper in each of the cities of Boston, New York, Philadelphia and Chicago; and in case any stockholder shall neglect or refuse to pay, in pursuance of such notice, the stock held by such person shall be forfeited absolutely to the use of the company, and also any payment or payments that shall have been made on account thereof, subject to the condition that the board of directors may allow the redemption on such terms as they may prescribe.

SEC. 17. *And be it further enacted*, That the said company is authorized to accept to its own use any grant, donation, loan, power, franchise, aid, or assistance which may be granted to or conferred upon, said company by the congress of the United States, by the legislature of any state, or by any corporation, person or persons: and said corporation is authorized to hold and enjoy such grant, donation, loan, power, franchise, aid, or assistance to its own use for the purpose aforesaid.

SEC. 18. *And be it further enacted*, That said Northern Pacific Railroad Company shall obtain the consent of the legislature of any state through which any portion of said railroad line may pass, previous to commencing the construction thereof; but said company may have the right to put on engineers and survey the route before obtaining the consent of the legislature.

SEC. 19. *And be it further enacted*, That unless said Northern Pacific Railroad Company shall obtain *bona fide* subscriptions to the stock of said company to the amount of two millions of dollars, with ten per centum paid within two years after the passage and approval of this act, it shall be null and void.

SEC. 20. *And be it further enacted*, That the better to accomplish the object of this act, namely; to promote the public interests and welfare by the construction of said railroad and telegraph line,

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and keeping the same in working order, and to secure to the government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes, congress may, at any time, having due regard for the rights of said Northern Pacific Railroad Company, add to, alter, amend or repeal this act.

Approved, July 2, 1864.

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# AMENDMENTS TO CHARTER.

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A Resolution extending the Time for the Completion of the Union Pacific Railway, Eastern Division.

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SEC. 2. *And be it further enacted*, That the time for commencing and completing the Northern Pacific Railroad, and all its several sections, is extended for the term of two years.

Approved, May 7, 1866.

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Joint Resolution extending the Time for the Completion of the Northern Pacific Railroad.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That section eight of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast," is hereby so amended as to read as follows:

That each and every grant, right, and privilege herein are so made and given to, and accepted by said Northern Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from and after the second day of July, eighteen hundred and sixty-eight, and shall complete not less than one hundred miles per year after the second year thereafter, and shall construct, equip, furnish and complete the whole road by the fourth day of July, Anno Domini, eighteen hundred and seventy-seven.

Approved, July 1, 1868.

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Joint Resolution granting Consent of Congress provided for in section ten of the act incorporating the Northern Pacific Railroad Company, approved July second, eighteen hundred and sixty-four.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the consent of the congress of the United States is hereby given to the Northern Pacific Railroad Company to issue its bonds, and to se-

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cure the same by mortgage upon its railroad and its telegraph line, for the purpose of raising funds with which to construct said railroad and telegraph line between Lake Superior and Puget Sound, and also upon its branch to a point at or near Portland, Oregon; and the term "Puget sound," as used here and in the act incorporating said company, is hereby construed to mean all the waters connected with the straits of Juan De Fuca, within the territory of the United States.

Approved March 1, 1869.

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A Resolution authorizing the Northern Pacific Railroad Company to issue bonds for the construction of its road and to secure the same by mortgage, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Northern Pacific Railroad Company be, and hereby is authorized to issue its bonds to aid in the construction and equipment of its road, and to secure the same by mortgage on its property, and rights of property of all kinds and description, real, personal, and mixed, including its franchise as a corporation; and, as proof and notice of its legal execution and effectual delivery, said mortgage shall be filed and recorded in the office of the Secretary of the Interior; and also to locate and construct under the provisions and with the privileges, grants, and duties provided for in its act of incorporation, its main road to some point on Puget Sound, via the valley of the Columbia River, with the right to locate and construct its branch from some convenient point on its main trunk line across the Cascade Mountains to Puget Sound; and in the event of their not being in any State or Territory in which said main line or branch may be located, at the time of the final location thereof, the amount of lands per mile granted by Congress to said company, within the limits prescribed by its charter, then said company shall be entitled, under the directions of the Secretary of the Interior, to receive so many sections of land belonging to the United States, and designated by odd numbers, in such State or Territory, within ten miles on each side of the said road beyond the limits prescribed in said charter, as will make up such deficiency, on said main line or branch, except mineral and other lands as excepted in the charter of said company of eighteen hundred and sixty-four, to the amount of the lands that have been granted, sold, reserved, occupied by homestead settlers, pre-empted or otherwise disposed of subsequent to the passage of the act of July two, eighteen hundred and sixty-four. And that twenty-five miles of said main line between its western terminus and the city of Portland, in the State of Oregon, shall be completed by the first day of January, Anno Domini, eighteen hundred and seventy-two, and forty miles of the remaining portion thereof each year thereafter, until the whole shall be completed between said points: *Provided*, that all lands hereby granted to said company,

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which shall not be sold or disposed of, or remain subject to the mortgage by this act authorized, at the expiration of five years after the completion of the entire road, shall be subject to settlement and preemption like all other lands, at a price to be paid to said company, not exceeding two dollars and fifty cents per acre; and if the mortgage hereby authorized shall at any time be enforced by foreclosure or other legal proceeding, or the mortgaged lands hereby granted, or any of them, be sold by the trustees to whom such mortgage may be executed, either at its maturity, or for any failure or default of said company under the terms thereof, such lands shall be sold at public sale, at places within the States and Territories in which they shall be situate, after not less than sixty days' previous notice, in single sections or subdivisions thereof, to the highest and best bidder: *Provided, further*, that in the construction of the said railroad American iron or steel only shall be used, the same to be manufactured from American ores exclusively.

SEC. 2. *And be it further resolved*, That Congress may at any time alter or amend this joint resolution, having due regard to the rights of said company, and other parties.

Approved May 31, 1870.

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AN ACT making Appropriations for sundry civil expenses of the Government for the year ending June thirty, eighteen hundred and seventy-one, and for other purposes.

* * * * * * * * *

For the survey of the public lands within the limits of the land grant to the Northern Pacific Railroad Company in a direct line extending from Duluth, on Lake Superior, to Georgetown, on the Red River of the North, ninety-five thousand nine hundred and eighty dollars: *Provided*, That five thousand dollars of this appropriation shall be expended for office work by the Surveyor-General of Minnesota: *And provided further*, That before any land granted to said company by the United States shall be conveyed to any party entitled thereto under any of the acts incorporating or relating to said company, there shall first be paid into the treasury of the United States the cost of surveying, selecting and conveying the same by the said company or party interested.

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Approved July 15, 1870.

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AN ACT to accept and ratify an agreement with the Crow Indians for the sale of a portion of their reservation in the Territory of Montana required for the use of the Northern Pacific Railroad, and to make the necessary appropriations for carrying out the same.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That a certain

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agreement made between the United States of America, represented by Llewellyn A. Luce, William H. Walker, and Charles A. Maxwell, special agents duly appointed in that behalf by the Secretary of the Interior, of the one part, and the Crow tribe of Indians resident on the Crow Reservation, in the Territory of Montana, acting under the supervision and with the approval of the Secretary of the Interior, of the other part, be, and the same is hereby, ratified and confirmed. Said agreement is executed by a majority of all the adult male Indians of the Crow tribe occupying or interested in the lands therein more particularly described, in conformity with the provisions contained in article eleven of the treaty with the Crow Indians of May seventh, eighteen hundred and sixty-eight, and is in the words following, namely:

"Whereas by section one of an act of Congress, approved July second, eighteen hundred and sixty-four, entitled, 'An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound, on the Pacific coast, by the northern route' (thirteenth Statutes at Large, page three hundred and sixty-five,) the Northern Pacific Railroad Company was authorized and empowered to lay out, locate, construct, furnish, maintain, and enjoy a continuous railroad and telegraph line with the appurtenances, namely: Beginning at a point on Lake Superior, in the State of Minnesota or Wisconsin, thence westerly by the most eligible railroad route, as shall be determined by said company, within the territory of the United States, on a line north of the forty-fifth degree of latitude, to some point on Puget Sound; and

"Whereas by section two of said act Congress granted to said company the right of way for the construction of said railroad and telegraph line to the extent of two hundred feet in width on each side of said railroad where it may pass through the public domain, including all necessary ground for station buildings, workshops, depots, machine shops, switches, side-tracks, turn-tables, and water-stations; and

"Whereas, by said section two, Congress provided that the United States should extinguish, as rapidly as may be consistent with public policy and the welfare of the Indians, the Indian titles to all lands falling under the operation of this act, and acquired in the donation to the road named in the act; and

"Whereas by treaty between the United States and the Crow Indians concluded at Fort Laramie, May seventh, eighteen hundred and sixty-eight, and duly ratified and proclaimed (fifteenth Statutes at large, page six hundred and forty-nine), a district of country in the Territory of Montana was set apart as a reservation for the absolute and undisturbed use and occupation of said Indians; and

"Whereas, there is no provision or stipulation in said treaty au-

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thorizing said company or recognizing its right to construct its road through said reservation; and

"Whereas the said company did, on the twenty-fifth day of June, eighteen hundred and eighty-one, file in the department of the interior a map showing the definite location of its line of railroad from the one hundred and seventh degree of longitude west from Greenwich westwardly through said reservation and adjacent territory to the western boundary of the said reserve, as provided by said act of eighteen hundred and sixty-four, the company having first obtained the permission of the secretary of the interior to survey its line in said reservation; and

"Whereas the said company desires to construct its line of railroad upon such designated route, and claims the right by virtue of said act so to do:

"Now, therefore, in order to fulfill the obligations of the government in the premises, this agreement, made this twenty-second day of August anno Domini eighteen hundred and eighty-one, between the Crow tribe of Indians resident on the Crow Reservation, in the Territory of Montana, represented by their chiefs, headmen, and heads of a majority of families, and being a majority of all the adult male Indians occupying or interested in the lands hereinafter described, the said Indians acting under the supervision and with the approval of the secretary of the interior of the United States, of the one part, and the United States of America, represented by Llewellyn A. Luce, William H. Walker, and Charles A. Maxwell, special agents duly appointed in this behalf by the secretary of the interior, of the other part, witnesseth: That for the consideration hereinafter mentioned the Crow tribe of Indians do hereby surrender and relinquish to the United States all their right, title and interest in and to all that part of the Crow Reservation situate in the Territory of Montana and described as follows, namely:

"A strip of land not exceeding four hundred feet in width, that is to say, two hundred feet on each side of the land laid down on the map of definite location hereinbefore mentioned, wherever said line runs through said reservation between the one hundred and seventh degree of longitude west of Greenwich on the east, and the mid-channel of the Big Boulder river on the west, containing five thousand three hundred and eighty-four acres, more or less. An official copy of said map of definite location was, on this twenty-second day of August, anno Domini eighteen hundred and eighty-one, produced before said special agents and the Indians in council, was fully explained to said Indians, and is hereunto attached, marked A, and made a part of this agreement. Also the several parcels of land situate along and adjoining the said strip of land hereinbefore mentioned between the one hundred and seventh degree of longitude west of Greenwich on the east, and the mid-

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channel of the Big Boulder river on the west, as defined and described on a map produced before said special agents and the Indians in council on the day and date above mentioned, and fully explained to and understood by said Indians; said tracts being designated on the aforesaid map by the letters A, B, C, D, E, F, G, H, I, J, and K, and containing, respectively, the following area, that is to say: Tract A, twenty-six and twenty-three hundredths acres; tract B, twenty-eight and fifty-four hundredths acres; tract C, twenty-six and twenty-three hundredths acres; tract D, twenty-six and twenty-three hundredths acres; tract E, twenty-six and twenty-three hundredths acres; tract F, twenty-six and twenty-three hundredths acres; tract G, twenty-six and twenty-three hundredths acres; tract H, twenty-six and twenty-three hundredths acres; tract I, twenty-six and twenty-three hundredths acres; tract J, twenty-eight and thirty-two hundredths acres; tract K, twenty-six and twenty-three hundredths acres, aggregating two hundred and sixty-six acres, more or less, said map being hereunto attached, marked B, and made a part of this agreement; which last mentioned tracts are intended for the use of said Northern Pacific Railroad Company for station houses, depots, switches, and so forth. It is further stipulated and agreed that the United States will not permit the said railroad company its employees or agents, to trespass upon any part of the lands of the Crow Indian reservation not hereby relinquished, nor permit said company, its employees or agents, to cut any timber, wood, or hay from the lands embraced in said reservation.

"And it is further stipulated and agreed that the secretary of the interior, upon such terms as he may see fit to impose, may permit to be constructed, maintained, and used within the said Crow Indian reservation wagon-roads not exceeding three in number, in addition to any established wagon-roads which may be now in use therein; the said three roads to connect with the line of said railroad at such points as the secretary of the interior may designate; all of which wagon-roads shall be under the control of the government of the United States.

"In consideration of the lands herein relinquished, amounting in the aggregate to five thousand six hundred and fifty acres, more or less, and for the privileges herein granted, the United States stipulates and agrees to pay to the Crow tribe of Indians the sum of twenty-five thousand dollars, to be deposited in the treasury of the United States to the credit of the said tribe of Indians upon the ratification of this agreement by congress, and the necessary appropriation made therefor, the sum aforesaid to be expended for the benefit of said Indians in such manner as the secretary of the interior may direct; the same to be in addition to any and all moneys to which the said Indians are entitled under the provisions of the treaty of May seventh, eighteen hundred and sixty-eight, hereinbefore mentioned.

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"All provisions of existing treaties with the Crow Indians not affected by this agreement are to remain in full force and affect, and this agreement is to be subject to ratification by congress.

"Executed at Crow agency, in the territory of Montana, this twenty-second day of August, anno Donini eighteen hundred and eighty-one, as witness the following signatures."

SEC. 2. That for the purpose of carrying the provisions of this act into effect the sum of twenty-five thousand dollars is hereby set aside, out of any moneys in the United States treasury not otherwise appropriated, to be deposited in the United States treasury to the credit of the Crow tribe of Indians, and to be expended for the benefit of ths said Indians in such manner as the secretary of the interior may direct.

SEC. 3. That the right of way over the land relinquished by said agreement to the United States for the construction of said Northern Pacific Railroad, and the use of the several parcels of land so relinquished intended to be used for depots, stations, sidings, and so forth, for said railroad, are hereby granted to said Northern Pacific Railroad Company, its sucessors and assigns, for the uses and purposes in said agreement set forth; but the land, or any part thereof, relinquished to the United States by said agreement shall not be used for railroad purposes by or for the said Northern Pacific Railroad Company, its successors or assigns, except upon the condition precedent that the said company, its successors or assigns, shall, within sixty days from the taking effect of this act, pay to the treasurer of the United States said sum of twenty-five thousand dollars hereby appropriated to be paid by the United States for the lands relinquished to the United States by said agreement, and shall within the same time file with the secretary of the interior its written acceptance of the conditions of this section; nor shall said land, or any part thereof, be continued to be used for railroad purposes by or for said Northern Pacific Railroad Company, its successors or assigns, except upon the further condition that said company, its successors or assigns, will pay any and all damages which the United States or said Indians, individually or in their tribal capacity, or any other Indians lawfully occupying said reservation, may sustain by reason or on account of the act or acts of said company, its successors or assigns, its agents or employees, or on account of fires originating by or in the construction or operation of said railroad, the damage in all cases to be recovered in any court of the territory of Montana having jurisdiction of the amount claimed, upon the suit or action instituted by the proper United States attorney in the name of the United States: *Provided*, That the said United States attorney may accept such sum of money in satisfaction of any such injury or damages as in his discretion may be just; and if so accepted before suit or action

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is commenced, no suit or action shall be instituted, and if accepted after commencement of suit or action, the same shall be dismissed at the cost of said company, its successors or assigns.

SEC. 4. That all moneys accepted or recovered under the provisions of section three of this act shall be covered into the Treasury of the United States, and if accepted or recovered on account of damages sustained by said Indians as aforesaid, they shall be placed to the credit of said Indians in their tribal-names, to be expended by the Secretary of the Interior for the benefit of said Indians in such manner as he may deem for their best interest, except in case of an individual Indian, when the amount covered into the Treasury shall be expended for his sole benefit.

Approved, July 10, 1882.

CHAP. 308.—An Act to provide for the Removal of the Flathead and other Indians from the Bitter Root Valley, in the Territory of Montana.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be the duty of the President, as soon as practicable, to remove the Flathead Indians (whether of full or mixed bloods), and all other Indians connected with said tribe, and recognized as members thereof, from Bitter Root valley (commonly known as the Jocko reservation), which by a treaty concluded at Hell Gate, in the Bitter Root valley, July sixteenth, eighteen hundred and fifty-five, and ratified by the Senate March eighth, eighteen hundred and fifty-nine, between the United States and the confederated tribes of Flathead, Kootenai, and Pend d'Oreille Indians, was set apart and reserved for the use and occupation of said confederated tribes.

SEC. 2. That as soon as practicable after the passage of this act, the surveyor general of Montana territory shall cause to be surveyed, as other public lands of the United States are surveyed, the lands in the Bitter Root valley lying above the Lo-Lo fork of the Bitter Root river; and said lands shall be open to settlement, and shall be sold in legal subdivisions to actual settlers only, the same being citizens of the United States, or having duly declared their intention to become such citizens, said settlers being heads of families, or over twenty-one years of age, in quantities not exceeding one hundred and sixty acres to each settler, at the price of one dollar and twenty-five cents per acre, payment to be made in cash within twenty-one months from the date of settlement, or of the passage of this act. The sixteenth and thirty-sixth sections of said lands shall be reserved for school purposes in the manner provided by law. Town sites in said valley may be reserved and entered as provided by law: *Provided*, That no more than fifteen townships of the lands so surveyed shall be deemed to be subject to the provisions of this act: *And provided further*, That none of the lands in said valley above the Lo-Lo fork shall be open to settlement

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under the homestead and pre-emption laws of the United States. An account shall be kept by the Secretary of the Interior of the proceeds of said lands, and out of the first moneys arising therefrom there shall be reserved and set apart for the use of said Indians the sum of fifty thousand dollars, to be by the President expended, in annual installments, in such manner as in his judgment shall be for the best good of said Indians, but no more than five thousand dollars shall be expended in any one year.

SEC. 3. That any of said Indians, being the head of a family, or twenty-one years of age, who shall, at the passage of this act, be actually residing upon and cultivating any portion of said lands, shall be permitted to remain in said valley and pre-empt without cost the land so occupied and cultivated, not exceeding in amount one hundred and sixty acres for each of such Indians, for which he shall receive a patent without power of alienation: *Provided*, That such Indian shall, prior to August first, eighteen hundred and seventy-two, notify the superintendent of Indian affairs for Montana territory that he abandons his tribal relations with said tribe, and intends to remain in said valley: *And provided further*, That said superintendent shall have given such Indian at least one month's notice prior to the date last above mentioned of the provisions of this act and of his right so to remain as provided in this section of this act.

SEC. 4. That in case John Owen, an actual settler in said valley, above the Lo-Lo fork, shall come within the provisions of the act of Congress of September twenty-seventh, eighteen hundred and fifty, entitled "An act to create the office of surveyor-general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers of the said public lands," and the acts amendatory thereof, he shall be permitted to establish such fact in the land office in the said territory of Montana, and, upon proof of compliance with the provisions of said act or acts, shall be permitted to obtain title, in the manner provided therein, to such quantity of land as he may be entitled to under the same. All disputes as to title to any lands mentioned in this act shall be decided according to the rules governing the decision of disputes in ordinary cases under the pre-emption laws of the United States.

Approved, June 5, 1872.

CHAP. 277.—An act to encourage the growth of timber on western prairies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That any person who shall plant, protect, and keep in a healthy, growing condition for ten years forty acres of timber, the trees thereon not being more than twelve feet apart each way on any quarter-section of any of the public lands of the United States shall be entitled to a patent for the whole of said quarter-section at the expiration of

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said ten years, on making proof of such fact by not less than two credible witnesses; *Provided*, That only one quarter in any section shall be thus granted.

SEC. 2. That the person applying for the benefit of this act shall, upon application to the register of the land-office in which he or she is about to make such entry, make affidavit before said register or receiver that said entry is made for the cultivation of timber, and upon filing said affidavit with said register and receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified: *Provided, however*, That no certificate shall be given or patent issue therefor until the expiration of at least ten years from the date of such entry; and if at the expiration of such time, or at any time within three years thereafter, the person making such entry, or if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses that he, she, or they have planted, and for not less than ten years have cultivated and protected such quantity and character of timber as aforesaid, they shall receive the patent for such quarter-section of land.

SEC. 3. That if at any time after the filing of said affidavit, and prior to the issuing of the patent for said land it shall be proven after due notice to the party making such entry and claiming to cultivate such timber, to the satisfaction of the register of the land office that such person has abandoned or failed to cultivate, protect and keep in good condition such timber, then, and in that event, said land shall revert to the United States.

SEC. 4. That each and every person who, under the provisions of an act entitled "An act to secure homesteads to actual settlers on the public domain" approved May twentieth, eighteen hundred and sixty-two, or any amendment thereto, having a homestead on said public domain, who, at the end of the third year of his or her residence thereon, shall have had under cultivation, for two years, one acre of timber, the trees thereon not being more than twelve feet apart each way, and in a good thrifty condition, for each and every sixteen acres of said homestead, shall upon due proof of said fact by two credible witnesses receive his or her patent for said homestead.

SEC. 5. That no land acquired under provisions of this act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of patent therefor.

SEC. 6. That the commissioner of the general land-office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land-offices shall be entitled to receive the same compensation for any lands entered under the provisions of this that they are now entitled to receive when the same quantity of land is entered with money.

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SEC. 7. That the fifth section of the act entitled "An act in addition to an act to punish crimes against the United States, and for other purposes" approved March third, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits required or authorized by this act.

Approved, March 3, 1873.

CHAP. 291.—An Act granting the Right of Way through the Public Lands to the Utah Northern Railroad Company.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That for the purpose of enabling the Utah and Northern Railroad Company, a corporation organized under the laws of the territory of Utah, to build and extend its line by way of Bear River Valley, Soda Springs, Snake River Valley, and through Montana territory, to a connection with the Northern Pacific Railroad, by the most advantageous and practicable line, to be selected by said company, the right of way through the public lands in the territory of Utah, Idaho, and Montana is hereby granted to said company. Said right of way hereby granted to said company is to be the extent of one hundred feet in width on each side of the central line of said road where it may pass over the public lands. There is also hereby granted to said company all necessary ground, not to exceed twenty acres for each ten miles in length of the main line of said railroad, for station-buildings, work-shops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations. And whenever it may be necessary to use material from the public lands for the construction of said road, it may be done; but no private property shall be taken for the use of said company, except in the manner now provided by section three of an act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the government the use of the same for postal, military, and other purposes,' approved July first, eighteen hundred and sixty-two," approved July second, eighteen hundred and sixty-seven.

SEC. 2. That said company shall be authorized and empowered to mortgage, in the usual manner, their franchise, road-bed, and all property belonging to said company, to an amount not to exceed fifteen thousand dollars per mile for the entire length of said road, upon such terms as may seem to them best; and upon said mortgage may issue mortgage bonds, not to exceed the same amount per mile; but in no case shall the United States be liable in any way whatever for anything done by said company.

SEC. 3. That the rights herein granted shall not preclude the construction of other roads through any canyon, defile or pass on the route of said road.

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SEC. 4. That the said railroad company shall locate the route of said railroad and file a map of such location within one year in the office of the Secretary of the Interior, and shall complete its railroad within ten years after the passage of this act; and nothing herein contained shall be construed as recognizing or denying the authority of the legislature of Utah territory to create railroad corporations.

SEC. 5. The Congress reserves to itself the right to alter, amend, or repeal this act whenever in its judgment the interests of the people may require it.

Approved, March 3, 1873.

CHAPTER 400.—An act for the relief of settlers on railroad lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in the adjustment of all railroad land grants, whether made directly to any railroad company or to any state for railroad purposes, if any of the lands granted be found in the possession of an actual settler whose entry or filing has been allowed under the pre-emption or homestead laws of the United States subsequent to the time at which, by the decision of the land office, the right of said road was declared to have attached to such lands, the grantees, upon a proper relinquishment of the lands so entered or filed for, shall be entitled to select an equal quantity of other lands in lieu thereof from any of the public lands not mineral and within the limits of the grant not otherwise appropriated at the date of selection, to which they shall receive title the same as though originally granted. And any such entries or filings thus relieved from conflict may be perfected into complete title as if such lands had not been granted: *Provided*, That nothing herein contained shall in any manner be so construed as to enlarge or extend any grant to any such railroad or to extend to lands reserved in any land grant made for railroad purposes: *And provided further*, That this act shall not be construed so as in any manner to confirm or legalize any decision or ruling of the interior department under which lands have been certified to any railroad company when such lands have been entered by a pre-emption or homestead settler after the location of the line of the road and prior to the notice to the local land office of the withdrawal of such lands from market.

Approved, June 22, 1874.

CHAPTER 152.—An act granting to railroads the right of way through the public lands of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the right of way through the public lands of the United States is hereby granted to any railroad company duly organized under the laws of any state or territory, except the District of Columbia, or by the con-

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gress of the United States, which shall have filed with the secretary of the interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station buildings, depots, machine shops, side tracks, turn-outs, and water stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road.

SEC. 2. That any railroad company whose right of way, or whose track or road-bed upon such right of way, passes through any canyon, pass, or defile, shall not prevent any other railroad company from the use or occcpancy of the said canyon, pass, or defile, for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade. And the location of such right of way through any canyon, pass, or defile, shall not cause the disuse of any wagon or other public highway now located therein, nor prevent the location through the same of any such wagon road or highway where such road or highway may be necessary for the public accommodation; and where any change in the location of such wagon road is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall before entering upon the ground occupied by such wagon road, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile.

SEC. 3. That the legislature of the proper territory may provide for the manner in which private lands and possessory claims on the public lands of the United States may be condemned; and where such provision shall not have been made, such condemnation may be made in accordance with section three of the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the government the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two," approved July second, eighteen hundred and sixty-four.

SEC. 4. That any railroad company desiring to secure the benefits of this act, shall, within twelve months after the location of any section of twenty miles of its road, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a profile of its road; and upon approval thereof by the secretary of the interior



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the same shall be noted upon the plats in said office; and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any such uncompleted section of said road.

SEC. 5. That this act shall not apply to any lands within the limits of any military, park, or Indian reservation, or other lands specially reserved from sale, unless such right of way shall be provided for by treaty stipulation or by act of congress heretofore passed.

SEC. 6. That congress hereby reserves the right at any time to alter, amend, or repeal this act, or any part thereof.

Approved, March 3, 1875.

CHAP. 72.—An act to confirm pre-emption and homestead entries of public lands within the limits of railroad grants in cases where such entries have been made under the regulations of the Land Department.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all pre-emption and homestead entries, or entries in compliance with any law of the United States, of the public lands, made in good faith, by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any land-grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land-office of the district in which such lands are situated, or after their restoration to market by order of the General Land-Office, and where the pre-emption and homestead laws have been complied with, and proper proofs thereof have been made by the parties holding such tracts or parcels, they shall be confirmed, and patents for the same shall issue to the parties entitled thereto.

SEC. 2. That when at the time of such withdrawal as aforesaid valid pre-emption or homestead claims existed upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the land department, were re-entered by pre-emption or homestead claimants who have complied with the laws governing pre-emption or homestead entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto.

SEC. 3. That all such pre-emption and homestead entries which may have been made by permission of the land department, or in pursuance of the rules and instructions thereof, within the limits of any land-grant at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws and the making of the proof required shall entitle the holder of such claim to a patent therefor.

Approved, April 21, 1876.

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CHAP. 191.—An act to grant additional rights to homestead settlers on public lands within railroad limits.

*Be it, enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this act, the even sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any state in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under existing laws, taken a homestead on any even section within the limits of any railroad or military road land-grant, and who, by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years residence and cultivation required by law; *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved, March 3, 1879.

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# General Laws of Montana,

## Enacted by the Sixteenth Legislative Assemby.

### ACTS AND JOINT RESOLUTIONS.

AN ACT to amend section thirteen hundred and seven, fifth division of compiled statutes, relating to the time when acts and joint resolutions shall take effect.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section thirteen hundred and seven of the fifth division of the compiled statutes of Montana be amended so as to read as follows:

Section thirteen hundred and seven. All laws and joint resolutions hereafter enacted or passed by the legislature of the territory of Montana shall take effect and be in force from and after their passage, unless such law or joint resolution shall describe a different time.

SEC. 2. Section thirteen hundred and eight of the fifth division compiled laws of Montana, and all acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 3. This act shall take effect from and after March tenth, eighteen hundred and eighty-nine.

### ATTORNEYS AT LAW.

A BILL for an act to amend Section One Hundred and Two, Chapter Nine of the Fifth Division of the Compiled Laws of Montana, relating to admitting to practice Attorneys at Law.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. Section one hundred and two of chapter nine of the Fifth Division of the General Laws of Montana, is hereby amended by adding thereto the following: *Provided*, That all persons otherwise qualified, shall be eligible to be admitted to practice as attorneys and counsellors at law without regard to sex, and wherever the words "he" or "his" are used in this chapter, they shall be con-

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strued to also include "she" or "her." So that the section when amended shall read, "Section One Hundred and Two: No person shall be permitted to practice as and defend any action, suit or plaint, in which he is not a party concerned, in any court of record within this territory, either by using or subscribing his own name or the name of any other person without previously having obtained a license for that purpose from some two of the justices of the supreme court, which license shall constitute the person receiving the same an attorney and counselor at law, and shall authorize him to appear in all the courts of record within this territory and there to practice as an at orney and counselor at law according to the laws and customs thereof, for and during his good behavior in said practice, and to demand and receive all such fees as an attorney and counselor at law in this territory: *Provided*, That all persons otherwise qualified shall be eligible to be admitted to practice as attorney and counselor at law without regard to sex and whenever the words "he" or "his" are used in this chapter they shall be construed to also include "she" or "her."

SEC. 2. This act shall take effect from and after its passage.

Approved, February 13, 1889.

## BOILER INSPECTOR.

AN ACT to establish a territorial board of inspection for steam boilers and for the examination and licensing of engineers.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. There shall be appointed by the governor, by and with the advice and consent of the legislative council, one boiler inspector for Montana, whose duty it shall be to inspect all steam boilers in use in Montana, not subject to inspection under the laws of the United States, and to examine and grant certificates of license to steam engineers entrusted with the care and management of steam boilers and steam machinery; said inspector shall receive a salary at the rate of $200 per month, and shall be appointed for the term of two years, unless sooner removed by the governor for cause; *Provided*. The first inspector to be appointed under the provisions of this act shall hold his office until the tenth day of next legislative council to convene within Montana. Such inspector shall before entering upon the duties of his office give a good and sufficient bond to the state or territory of Montana in the sum of five thousand (5000) dollars, to be approved by the district judge and the clerk of the district court or his deputy, where such inspector may reside, conditioned for the faithful performance of all the duties imposed upon him, by law; such bond shall be approved by the writing of the word "approved" thereon, and when approved, shall be signed by the district judge and the clerk of such court or his deputy, and shall then be filed with the secretary of Montana.

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Such inspector shall, before entering upon the duties of his office, take and subscribe an oath of office that he will honestly and to the best of his skill and understanding perform the duties of boiler inspector for Montana.

SEC. 2. No person shall be eligible to hold the office of inspector of boilers and steam machinery who has not had at least five years' actual practice in the operation of steam engines and steam boilers, or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery, or any patented article required to be sold or in general use in the construction of steam boilers or steam engines, or who is not of good moral character and temperate habits, and suitably qualified by experience with steam boilers and machinery so as to enable him to perform the duties of the office; *Provided, however*, That nothing contained in this section of this act shall be construed so as to prevent the invention, patenting or sale of any article or mechanical appliance so invented and patented by such inspector, after his appointment to office.

SEC. 3. There shall also be an assistant inspector, to be called the assistant inspector of boilers. Such assistant inspector shall be a person who has had at least four years' experience in practical running and operation of steam engines and boilers, and he shall be a person of temperate habits and good character, and qualified by experience to perform the duties of his office. He shall be appointed by the governor, by and with the advice and consent of the council, and shall be subject to removal at the will of such governor. He shall receive as compensation for his services the sum of one hundred and fifty (150) dollars per month. Such assistant inspector shall take an oath and shall be required to execute a bond, for the faithful performance of the duties of his office, in the sum of twenty-five hundred (2,500) dollars, and said bond shall be filed with and approved by the territorial secretary.

SEC. 4. The inspector of boilers and the assistant inspector, shall within twenty days after their appointment and qualification, meet at the capitol and establish an office and adopt rules and regulations as nearly uniform as possible for the inspection of steam boilers and machinery, and prescribe the nature and extent of the examination of applicants for licenses, and adopt such rules for the issuing thereof as shall be required by the provisions of this act, and they shall also generally adopt and make such other rules and regulations as they may deem necessary to fully and effectually carry into effect the provisions of this act. They shall cause at least five hundred copies of such rules to be printed in convenient form and distribute copies thereof amongst the engineers of Montana, and to all superintendents of mines and mining companies.

SEC. 5. The said inspector of boilers shall inspect all steam

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boilers or steam generators before the same shall be used, except in the case of new boilers, which shall be inspected within ninety (90) days after they are put in use, unless accompanied by a certificate that such boiler has been inspected by a regular state inspector, and all boilers shall be inspected once at least in every year thereafter. And the inspector of boilers shall subject all boilers to hydrostatic pressure, and shall satisfy himself, by a thorough internal and external examination, that the boilers are well made and of good and suitable materials; that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat are of the proper dimensions and free from obstructions; that the flues are circular in form; that the fire line of the furnace is at least two inches below the prescribed minimum water line of the boilers; that the arrangement for delivering the feed water is such that the boilers cannot be injured thereby, and that such boilers and their steam connections may be safely employed without danger to life. He shall also satisfy himself that the safety valves are of suitable dimensions, sufficient in number and area and properly arranged and that the safety valve weights are properly adjusted, so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate; that there are a sufficient number of guage cocks properly inserted to indicate the amount of water, and suitable guages that will correctly record the pressure of steam; and adequate and certain provisions for an ample supply to feed the boilers at all times, and that suitable means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts of the boilers when they are under pressure of steam. In subjecting boilers to the hydrostatic test, the inspector shall assume one hundred and twenty-five (125) pounds to the square inch as the maximum pressure allowable as a working pressure for new boilers of forty-two inches in diameter, made in the best manner of plates one-fourth of an inch thick and of good material; but the inspector shall rate the working power of all high-pressure boilers according to their strength as compared with this standard, and in all cases, the test applied shall exceed the working pressure allowed, in the ratio of one hundred (100) to seventy-five (75). Should the inspector be of the opinion that any boiler, by reason of its construction or material, will not safely allow so high a working pressure, or will allow a greater working pressure than is herein provided, he may, for reasons to be stated specifically in his certificate, fix the pressure of such boiler at more or less than three-fourths (¾) of the test pressure, as the case may be. No boiler or steam pipe, nor any of the connections thereto, shall be approved which is made in whole or in part of bad material, or is unsafe from any cause. Nothing herein shall be construed to prevent the use of any boiler or steam generator which may not be constructed of riveted iron or steel plates, when the inspector

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has satisfactory evidence that such boiler or steam generator is equal in strength and as safe from explosion as boilers of the best quality constructed of iron or steel plates. *Provided*, in any case where for good cause the inspector is unable to make any such inspection or examination of any steam boiler, it shall be the duty of the assistant inspector to proceed and act in accordance with the requirements of this law, as fully as the inspector is hereby empowered and directed to do.

SEC. 6. In addition to the annual inspection, it shall be the duty of the inspector, or of the assistant inspector, to examine at proper times, when in their opinion such examination shall become necessary. all such boilers as shall become unsafe from any cause, and to notify the owner, or the person using such boilers of any defect and what repairs are necessary to render them safe. In case of failure to comply with the requirements of said inspector or assistant inspector, the owner or person using such boiler shall be liable to a fine not exceeding five hundred (500) dollars and liable for any damage to person or property resulting therefrom.

SEC. 7. It shall be the duty of the owners or managers of steam boilers mentioned in this act, to allow said inspectors free access to the same, and it is hereby made the duty of engineers operating the same to assist the inspectors in their examinations and to point out any defects they may know in the boilers or machinery in their charge. Any engineer not complying with this section shall be subject to have his license revoked or be suspended.

SEC. 8. No person shall be granted a license to operate steam boilers or steam machinery under the provisions of this act who has not been examined by an inspector and found competent to perform the duties of an engineer and receive from such inspector a written or printed license so to act. Any person who shall operate any steam boiler or steam engines without first obtaining a license from an inspector or assistant inspector, shall be deemed guilty of a misdemeanor, and shall be fined not to exceed fifty (50) dollars, or imprisonment in the county jail for not more than thirty (30) days. Engineers shall be divided into three classes, namely: First-class engineers, second-class engineers, third-class engineers. No license shall be granted to any person to perform the duties of "first-class engineer" who has not taken and subscribed an oath that he has had at least three years' experience in the operation of steam boilers and steam machinery, or whose knowledge or experience is not such as to justify the belief that he is competent to take charge of all classes of steam boilers and steam machinery. No license shall be granted to any person to act as "second-class engineer" who has not taken and subscribed an oath that he has had at least two years' experience in the operation of steam boilers and steam machinery, and whose experience and habits of life are

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such as to warrant the belief that he is competent to take charge of all classes of steam boilers and steam machinery, not exceeding one hundred (100) horse power. No license shall be granted to any person to act as "third-class engineer" who has not served at least one (1) year as fireman under a competent engineer, and found upon examination to be sufficiently acquainted with the duties of an engineer, to warrant the belief that he can safely be trusted with steam boilers and steam machinery, not exceeding twenty (20) horse power. All firemen who have charge of steam boilers, as to the regulation of the feed water, etc., and where the boilers are so situated as not at all times to be under the eye of the engineer in charge, shall be required to pass a "third-class engineer's" examination and procure the same license. Whenever complaint is made against an engineer holding a license from the territorial inspectors, that he has through negligence, want of skill, or inattention to duty, permitted his boiler to burn, or otherwise to become in bad condition, or that he has been found intoxicated while on duty, it shall be the duty of the inspector or assistant inspector to make a thorough investigation of the charge, and upon satisfactory proof of such charge to revoke the license of such engineer, provided nothing in this section contained shall permit the assistant inspector to issue any license certificate to a first-class engineer without first submitting the recommendation that such certificate be issued to the approval of the inspector and securing his approval and consent thereto. The inspector and the assistant inspector shall, as often as convenient, publish a notice in some suitable newspaper, stating upon what days they will be in certain specified localities, and that they will then, and at the time and place specified in such notice, receive applications and make examinations for the purpose of granting engineers certificates, and that they will, also, on or about said specified times, examine all boilers subject to inspection in the vicinity of the place where such notice may be published.

SEC. 9. In making the inspection of boilers and machinery herein provided for, the inspectors may act jointly or separately; but the inspector or assistant inspector, making such inspection, shall, in all cases, subscribe and make oath to the certificate of inspection, and report such action. Any inspector or assistant inspector who shall wilfully certify falsely regarding any steam boilers or their attachments, or shall grant a license to any person to act as engineer, contrary to the provisions of this act, shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars ($500), or imprisonment not exceeding one (1) year in the territorial prison, or both, at the discretion of the court.

SEC. 10. The inspector or assistant inspector shall be authorized to charge a fee of ten (10) dollars for the inspection of each single boiler and its steam connections, and five (5) dollars for each additional boiler, when connected, said fee payable at the time of

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the delivery of the inspector's certificate of inspection. The fee for the examination of applicants for engineer's license shall be seven dollars and fifty cents ($7.50) for first-class engineers, five (5) dollars for second-class engineers, and three (3) dollars for third-class engineers; which said fee shall be paid at the time of application for license. In case of the failure of an applicant to pass a successful examination, three (3) months must elapse before he can be again examined as an applicant for license herein in the class for which he was examined: *Provided*, That the said inspector may grant to an applicant a lower grade of license than that applied for upon such examination. All certificates of inspection and engineer's licenses shall be displayed in some conspicuous place in the engine room.

SEC. 11. If any person who has applied for a license as a first, or second, or third-class engineer under the provisions of this act and been rejected, feels aggrieved, he may at any time after the lapse of ten days, and within ninety days after the day of his rejection, by petition in writing, set forth the causes for his grievance and demand another examination. Such petition shall be addressed to and served upon the inspector, and shall be duly verified by the rejected applicant, and shall be accompanied by the required fee for a second examination. Within two days after receiving such petition and fee, it shall be the duty of the inspector of boilers to notify the applicant in writing, that on a day certain, which shall be not less than five nor more than forty days after the day of the service of the petition upon such inspector, he will be ready to grant him another examination. At least two days before the day set for such examination the applicant shall designate in writing to such inspector, an engineer holding a certificate of equal grade with the one such applicant may ask re-examination for, whom he will have present upon the day and at the hour fixed for his re-examination. Upon the same day, or any day prior to the date set for such examination such inspector and selected engineer shall in writing agree upon and designate and notify a third disinterested engineer holding a license equal in grade to the rejected applicant's, to sit with them on the day set for such re-examination as an examining board to re-examine such rejected applicant for a certificate of the class he may have applied for and been rejected. Upon the day and hour set for such re-examination all three of such board, that is, the inspector and the engineer selected by the applicant and the engineer agreed upon by them, shall proceed to carefully re-examine such applicant and fully and fairly test his qualifications and capabilities to receive a license such as he may apply for. After such examination is completed, if a majority of such board decide that such applicant is entitled to the license he has applied for, or any license of any inferior grade, the inspector shall without delay issue a certificate accordingly; but if a majority of such board reject such applicant,

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it shall be deemed a final rejection and he shall not be granted another examination for the space of ninety days after such last rejection, when he may again apply to the inspector or assistant as provided by section ten of this act, and no person shall be granted more than one re-examination before a board under the provisions of this act. One-half of the fee which may have accompanied any rejected applicant's petition for re-examination shall be awarded by the inspector to each of the engineers who sit on any such examining board, and in case the applicant is granted a license, the fee paid when he was first rejected shall be deemed the fee for the issuing of such license granted by any board of examiners. In case any engineer selected or agreed upon as by this section is provided, fails or neglects to appear or serve, another may be selected in his place in the manner herein provided.

SEC. 12. This act shall not apply to railroad locomotives in Montana, nor shall it apply to traction engines, engines and boilers mounted on wheels, boilers used for heating purposes in private residences, nor shall it apply to other boilers having a capacity of five-horse power or less, nor shall locomotive engineers or persons operating any of the engines or boilers herein exempted from the operation of this act, be required to procure licenses from the territorial inspector or assistant inspector: *Provided*, nothing in this act anywhere contained shall be construed to exempt from inspection and examination any steam boiler in use anywhere within the limits of an incorporated city or town: *And provided further*, the fees which may be demanded and received for the inspection of traction engine and furnace and other steam boilers in cities shall not exceed the sum of five dollars for each annual inspection. The penalties herein provided for shall not obtain in any case prior to the time the inspector or assistant inspector has notified the persons affected that they are ready to make the inspection as herein provided for. All certificates of inspection must be renewed yearly; the fee for the inspection of boilers to be the same each year.

SEC. 13. All certificates of licenses to engineers of all classes shall be renewed yearly. The fee for renewal shall be one dollar in all cases. All moneys collected by virtue of this act shall be paid by the board of inspectors into the territorial treasury at least as often as once in each month. It shall be the duty of the inspector of boilers to make an annual report to the governor of Montana, setting forth the moneys collected by him and the assistant inspector from any and all sources, and the disbursements and the number of boilers inspected by them, and number and grades of licenses issued and to whom, and the general results of the experiences of his office: and such recomendations as to him may seem proper and fit. Said report shall also refer to and account for the causes of any boiler explosions which may have occurred in Montana during the year, and the loss of life or property.

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SEC. 14. The inspector and assistant inspector shall receive their actual and necessary traveling expenses when in the performance of their duties, and the actual cost of office rent, stationery and printing: *Provided*, in no event shall the allowance for such office rent and stationary and printing exceed the aggregate sum of one thousand dollars. These payments shall be made from the funds in the territorial treasury upon vouchers signed and sworn to by the inspector and assistant and submitted to the territorial secretary and auditor, who, if they find the same just and true, shall draw warrants upon the territorial treasury for the amounts thereof; separate vouchers being made for salary and expenses. All bills must be audited and signed as correct by the inspector and assistant before being paid.

SEC. 15. After the expiration of nine months from the first of March, 1889, it shall be unlawful for any person in the territory or state to operate a stationary boiler or steam engine, or any boiler or steam engine other than railroad locomotives or other engines and boilers exempted in section ten (10) of this act, as herein provided for, without a license granted under the provisions of this act. The owner, renter or user of the steam engine or boiler shall be equally liable for violations of this section: *Provided, however*, that in case of accident, sickness, refusal to work or any unforeseen event of the licensed engineer employed by any owner, renter or user of a steam engine or boiler, operated in remote districts, which would retard the work to be performed, the owner, renter or user may for the space of four (4) weeks employ any person he may consider competent to run the engine or boiler, said person not having a license: *Provided, however*, that the person so employing the unlicensed engineer shall immediately notify the inspector or assistant inspector.

SEC. 16. All violations of the provisions of this act not herein provided for, shall be deemed misdemeanors and shall be punished as such.

SEC. 27. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 18. The salaries of the inspector and assistant inspector shall be paid to such officers upon vouchers presented by them each month by the territorial auditor who is hereby authorized to file such vouchers and draw his warrant therefor upon the territorial treasury upon any funds not otherwise appropriated.

SEC. 19. This act shall take effect from and after its passage and approval by the governor.

## BOUNTY—WILD ANIMALS.

AN ACT to provide for the payment of bounties for the killing of certain stock destroying animals.

*Be it enacted by the legislative assembly of the territory of Montana:*

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SECTION 1. There shall be paid out of the territorial treasury, for the killing of animals hereinafter mentioned which have been killed in said territory the following bounties: For each mountain lion, two dollars; for each bear, two dollars; for each wolf or coyote, two dollars; for each wildcat, lynx or bobcat, fifty cents.

SEC. 2. Any person killing any one of the above named animals, for the purpose of obtaining the bounty thereon, shall within sixty (60) days from the date of killing any of said animals, exhibit the entire skin of said animal or animals including the tail, and the skin from the forehead, embracing the ears of each animal, to the probate judge of the county in which such animal or animals were killed: *Provided*, That this act shall not apply to any skins of any animals which may have been killed prior to February 20, 1889.

SEC. 3. Any person presenting to the probate judge of the county, the skin or skins of any such animals for the purpose of obtaining bounty thereon, shall at the time, file with such probate judge his affidavit setting forth, that affiant killed the animal or animals from which the skin or skins were taken, that the same were killed within the bounds of the county in which the application for the certificate is made, which certificate shall be substantially in the following form:

BOUNTY CERTIFICATE.

——— of Montana, }
County of ——— } ss.

I, ———, probate judge of ——— county, do hereby certify that ——— has exhibited to me this ——day of ——— A. D. 18—, the skin— of ——— of ——— and has filed with me his affidavit that he killed, within sixty days from this date the animal— from which the above mentioned skin— ——— taken, and that the same ——— killed in the above named county. And I further certify that I have carefully examined and punched the ears of the above mentioned skin— according to law, in the presence of ——— county ———, whose name is hereto subscribed.

———
Probate Judge.

Witness: ———, County ———.

SEC. 4. The probate judge shall, before issuing any certificates to any person or persons for the killing of any of the above mentioned animals, require the affidavit of two respectable free holders, residence of said county, that they are acquainted with the person or persons exhibiting the skin or skins that to the best of their belief the animal or animals from which such skin or skins were taken, were killed within the limits of said county.

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SEC. 5. The probate judge, with the county clerk or county treasurer of said county, whose duty it shall be to be present, shall minutely examine each skin presented in order to prevent fraud, and should said officers after careful examination, find that the scalp and ears belonging to each skin have not been severed, patched or punched, the probate judge shall then, in the presence of the officer or officers herein named, mark each ear by punching a hole one inch in diameter in the same, and then shall deliver said skin or skins to the owner or owners.

SEC. 6. The probate judge shall then and there make out and deliver to such owner a certificate under his official seal, showing the number and species of skin or skins so punched; such certificate shall be duly signed by him in his official capacity, and shall be attested by said county clerk or county treasurer, who shall witness and sign the same in his official capacity. The probate judge and officer assisting him shall receive from the party to whom the certificate is issued the sum of twenty-five cents for each and every skin so punched, which shall be in full compensation for all services rendered by such officers under the provisions of this act, including affidavits and certificate. Of the said fee of twenty-five cents the probate judge shall receive fifteen cents, and the assisting officer ten cents.

SEC. 7. It shall be the duty of the probate judge to keep a record in a bound book kept for the purpose, of all skins so punched, showing dates, number and kind of skins so punched, name of owner or owners, and of the witness, and said book shall be transmitted to his successor on the expiration of his term of office.

SEC. 8. Whenever any probate judge shall have reason to believe that any person or persons presenting the skin or skins of any of the above mentioned animals for the purpose of obtaining bounty thereon, has evaded any of the provisions of this act, or seeks to obtain the bounty thereon unlawfully, it is hereby made his duty to require from such person or persons satisfactory evidence of the time, place and manner of the killing of said animal or animals.

SEC. 9. It shall be the duty of the territorial auditor to take all certificates presented that have been issued under the provisions of this act, and he shall give the person or persons presenting the certificates a warrant on the territorial treasury for the amount, as specified in section one of this act. The person presenting the certificate shall receipt upon the back of it the full amount received, and the auditor and treasurer shall keep an account of all warrants so issued and paid, which shall appear in their annual reports to the governor.

SEC. 10. Any person who shall falsely make, alter, forge, or counterfeit any of the certificates mentioned in this act, shall be deemed guilty of forgery, and upon conviction thereof shall be pun-

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ished by imprisonment in the territorial prison for a term of not less than one (1) year, nor more than ten years.

SEC. 11. Any person or persons who shall patch up any skin or scalp, with intention to defraud the territory, or shall sign any certificates herein provided for, without first counting the skins, or shall intentionally evade any of these provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than two hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail for not less than two nor more than six months, or by both such fine and imprisonment.

SEC. 12. Any person or persons who shall swear falsely as a witness, or procure the same to be done by another, for the purpose of obtaining or procuring from any probate judge of this territory a certificate as in this act mentioned, shall be deemed guilty of perjury or subornation of perjury, as the case may be, and upon conviction thereof shall be punished by imprisonment in the territorial prison for a term not less than one nor more than ten years.

SEC. 13. This act shall take effect and be in force from and after February twenty, eighteen hundred and eighty-nine.

Approved, February 20, 1889.

## BOTTLES, BOXES AND SIPHONS.

AN ACT to protect the owners of bottles, boxes and siphons used in the sale of soda waters, mineral or aerated waters, cider, ginger ale or other aerated non-intoxicating beverages.

*Be it enacted by the legislative assembly of the territory of Montana:*

SEC. 1. Any and all persons and corporations engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, cider, ginger ale or other aerated, non-intoxicating beverages in bottles or siphons with his, her or their name or names, or other marks or devices branded, stamped, engraved, etched, blown, impressed or otherwise produced upon such bottles or siphons, or the boxes used by him, her, it or them, may file in the office of the clerk of the county in which his, her, its or their principal place of business is situated, and also in the office of the secretary of Montana, a description of the name or names, marks or devices so used by him, her, it or them, respectively, and cause such description to be printed once in each week for three weeks successively in a newspaper published in the county in which said notice may have been filed as aforesaid.

SEC. 2. It is hereby declared to be unlawful for any person or persons, corporation or corporations, to fill with soda waters, mineral or aerated waters, cider, ginger ale or other beverages, or with medicine, compounds or mixtures, any bottle, box or siphons so marked or distinguished as aforesaid, with, or by any name,

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mark or device of which a description shall have been filed and published as provided in section 1 of this act, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device thereon, or to sell, buy, give, take or otherwise dispose of, or traffic in the same without the written consent of, or unless the same shall have been purchased from the person or persons, corporation or corporations, whose mark or device shall be or shall have been in or upon the bottle, box or siphon so filled, trafficked in, used or handled as aforesaid. Any person or persons or corporation offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be punished for each offense by imprisonment not less than five days nor more than thirty days, or by a fine of ten cents for each and every such bottle, box or siphon so filled, sold, used, disposed of, bought or trafficked in, or by both such fine and imprisonment, in the discretion of the magistrate before whom the offense shall be tried.

SEC. 3 The use by any person other than the person or persons, corporation or corporations whose device name or mark shall be, or shall have been upon the same, without such written consent or purchase as aforesaid, of any such marked or distinguished bottle, box or siphon a description of the name, mark or device whereon shall have been filed and published as herein provided, for the sale therein of soda waters, mineral or aerated waters, cider, ginger ale or other beverages, or of any article of merchandise, medicines, compounds or preparations or for the furnishing of such or similar beverages to customers, or the buying, selling, using, disposing of, or trafficking in any such bottles, boxes or siphons by any person other than said persons or corporations, having a name, mark or device thereon, or such owner without such written consent, or the having by any junk dealer, or dealer in second-hand articles, possession of any such bottles, boxes or siphons, a description of the marks, names or devices, wherein shall have been so filed and published as aforesaid without such written consent, shall and is hereby declared to be presumptive evidence of the said unlawful use, purchase or traffic in, of such bottles, boxes or siphons.

SEC. 4. Whenever any person, persons or corporations mentioned in section one of this act, or his, her, its or their agent, shall make oath before any magistrate that he, she or it has reason to believe, and does believe, that any of his, her, its or their bottles, boxes or siphons, a description of the names, marks or devices whereon has been so filed and published as aforesaid, are being unlawfully used or filled, or had by any person or corporation manufacturing or selling soda, mineral or aerated waters, cider, ginger ale and other beverages, or that any junk dealer, or dealer in second-hand articles, vender of bottles, or any other person or corporation, has any such bottles, boxes or siphons in his, her or its possession, or secreted in any place, the said magistrate must

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thereupon issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person in whose possession such bottles, boxes or siphons may be found, and shall then enquire into the circumstances of such possession and if said magistrate finds that such person has been guilty of a violation of section two of this act, he must impose the punishment therein prescribed, and he shall also award possession of the property taken upon such search warrant to the owner thereof.

SEC. 5. All acts and parts of acts inconsistent herewith are for the purpose of this act hereby repealed.

SEC. 6. This act shall take effect immediately after its passage.

Approved, March 9, 1889.

BRIDGES—FREE.

AN ACT to authorize Counties to Build Free Bridges.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SEC. 1. That the county commissioners of the several counties of the territory of Montana, if in their judgment they deem it for the best interest of their county, are hereby authorized in addition to the taxes already levied in said counties, to levy a special tax, not to exceed one mill on the dollar of the taxable property of said county, for the purpose of constructing and maintaining free bridges in said county.

SEC. 2. The taxes authorized to be levied by this act shall be levied and collected in the same manner as other taxes, and the money when so collected shall be paid into the county treasury and kept as a special bridge fund, subject to the order of the the county commissioners, who shall expend the same in constructing and maintaining suitable bridges, on the watercourses in said counties, at such places as shall in their judgment best accommodate the public convenience.

SEC. 3. The construction of said bridges shall be under the supervision of the board of county commissioners, and all work thereon that exceeds the amount of $100 shall in all cases be contracted for to the lowest responsible bidder, under such rules and regulations as the said board of commissioners may prescribe.

SEC. 4. Before any contract as aforesaid shall be let, the county commissioners shall advertise for bids therefor in the newspaper having the contract to do the county printing, for at least thirty days prior to the letting of said contract, which advertisement shall set fourth all neccessary specifications on which to base proposals. *Provided, however*, that in cases of emergency, when the commissioners may consider the immediate construction or repairs of any bridge neccessary for the public convenience, they may contract for the performance of work without the aforesaid advertisement.

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SEC. 5. This act shall take effect and be in force from and after its passage.

Approved, February 28, 1889.

## CEMETERIES.

AN ACT relating to the protection of cemeteries and the remains of the dead.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That every person who willfully or maliciously defaces, breaks, destroys, cuts, mutilates, injures or removes any tomb, monument, gravestone or other structure erected to any deceased person, or memento or memorial or any tree, shrub or plant, ornamental or otherwise, appertaining to the place of burial of a human being, or who shall deface, break, destroy, cut, mutilate, injure or remove any fence, post, rail or wall of any cemetery or graveyard, or grave therein, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding fifty dollars, or imprisoned in the county jail for thirty days, or by both such fine and imprisonment, and may be adjuged to pay the costs of the prosecution.

SEC. 2. That every person who mutilates, disinters or removes from the sepulchre the dead body of a human being without authority of law shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary for a period of five years and fined in any sum not exceeding one thousand dollars, or both such fine and imprisonment and pay the costs of prosecution. But the provisions of this section shall not apply to any person who shall upon due notice given to the authorities of any cemetery remove the dead body of a relative or friend for re-interment

SEC. 3. That every person who disinters and removes, or who knowingly receives after any disinterment and removal the dead body of a human being, from any grave or other place where the same has been buried, or from any place where the same is deposited while awaiting burial, with intent to sell or dissect the same, without authority of law, or from malice or wantonness shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned in the penitentiary for a period not exceeding five years and fined in any sum not exceeding one thousand dollars, and may be adjudged to pay the costs of prosecution.

SEC. 4. That the superintendent, manager or any other person in charge of any cemetery in Montana is hereby authorized to arrest forthwith any person committing any of the offenses specified in this act, and bring such person before any court of competent jurisdiction for the purpose of holding such person to answer for such offense or offenses, and then and there shall make complaint in due form.

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SEC. 5. This act shall take effect from and after its passage.

Approved, March 12, 1889.

CITY ORDINANCES.

AN ACT to amend section 334 of the compiled statutes of Montana, fifth division, relating to printing and posting city ordinances.

*Be it enacted by the legislative assembly of the territory of Montana:*

SEC. 1. That section 334, fifth division, compiled statutes of Montana territory, be and the same is hereby amended to read as follows:

SEC. 334. As soon as may be after the passage of any ordinance it shall be recorded in a book kept for that purpose and known as the book of ordinances of the city or town of ———. All ordinances shall be signed by the mayor or presiding officer of the council and by the city clerk. Ordinances of a general nature and those imposing any fine, penalty or forfeiture, may be published in some newspaper published within the limits of the city or town, or written copies of such ordinances shall be posted in not less than five conspicuous places within the limits of such city or town as the council may direct. *Provided*, That the city clerk shall attach at the expiration of each term of posting and at the end of the ordinances as recorded in the book of ordinances his certificate as to the fact of posting said ordinance as provided for in this act.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

Approved March 9, 1889.

CITIES AND TOWNS—INDEBTEDNESS.

AN ACT to amend an act to enable cities and towns to incur indebtedness.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. Section one of an act entitled "An act to enable certain cities and towns to incur indebtedness," approved September fourteenth, eighteen hundred and eighty-seven, is hereby amended so as to read as follows: Section 1. That any incorporated city or town in the territory of Montana having an assessed valuation of eight hundred thousand dollars or over, is hereby authorized to submit to the qualified electors of such city or town the question, whether coupon bonds shall be issued on the credit of such city or town to an amount not exceeding, including existing indebtedness, four per cent of its assessed valuation for the purpose of constructing water works, public buildings, street grades, bridges, sewers or other public improvements.

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SEC. 2. Section six of said act is hereby amended so as to read as follows: Section 6. Such bonds shall be redeemable in ten years and payable in twenty years. Whenever at any time after ten years from the issue of said bonds, the sum in the sinking fund shall equal or exceed one thousand dollars, and from time to time thereafter when it may occur the said city or town treasurer shall cause a notice to be published in one newspaper published in such city or town that he will in thirty days from the date of such notice, redeem said amount of bonds which then may be payable, giving the number thereof, preference being given to the oldest issue; and if at the expiration of thirty days the holder or holders of said bonds shall fail or neglect to present the same for payment, interest thereon shall cease; but the treasurer shall at all times thereafter be ready to redeem the same on presentation. Such notice shall be sent by mail to such bank in New York City as the treasurer has designated as the bank at which said bonds and the interest thereon will be paid.

SEC. 3. Nothing in this act contained shall be so construed as to effect the validity, or to change the terms or conditions of any obligations issued or contracted under and in pursuance of the act of which this act is amendatory.

SEC. 4. This act shall take effect from and after its passage.

Approved, February 28, 1889.

## CODE COMMISSION.

AN ACT to provide for the appointment of a commission to codify the criminal and civil law and procedure, and to revise, compile and arrange the statute laws of Montana.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. The governor of the territory of Montana, by the advice and with the consent of the territorial council is hereby authorized and empowered to appoint a commission of three persons learned in the law, and of this territory, to codify the criminal and civil law and procedure, and to revise, simplify, arrange and consolidate the statutes of the territory of Montana, which shall be in force at the time such commission shall make their final report.

SEC. 2. It shall be the duty of the commission to prepare the following codes: The civil code, the penal code, the code of civil procedure and the political code. The civil code shall consist of the body of the common law reduced to the form of a statute as far as possible, with such changes and amendments as it shall seem to the commission advisable. The penal code shall treat of crimes and punishments, of criminal procedure and of prisons and jails. The code of civil procedure shall treat of the procedure and practice in civil actions and proceedings in all of the courts. The political code shall treat of the sovereignty and people of the state,

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of the political rights and duties, of political divisions of the state, of the government of the state, of government of counties, cities and towns, and of such other general laws as shall seem proper to the commission. The commission shall also prepare and make a report designating what statutes or parts of statutes are repealed by the provisions of any of the codes and what, if any, laws of a general nature ought to be enacted in addition to the several codes.

SEC. 3. When the commission shall have prepared and completed any one of the above named codes, with a proper index thereto, a copy of the same shall be filed in the office of the secretary of this territory, or of any officer who shall succeed to his duties, and the same shall be submitted for action thereon to the first session of the legislature of the state of Montana, and such code or codes may be enacted into a law or laws, as such legislative body shall deem proper: *Provided*, That the said commission shall not be required to prepare or complete the political code hereintofore mentioned, until after the first session of the legislature of the state of Montana, but shall prepare, complete and submit the said political code to the second session of the legislature for the state of Montana, whether regular or extraordinary, for their action and approval.

SEC. 4. The said commissioners shall each receive a compensation for his services of $4,000, and are empowered and authorized to employ one competent clerk, who shall receive for his or her services $150 per month. It is hereby made the duty of the secretary of Montana to furnish said commissioners a suitable office and to furnish the same, and to supply said commissioners all books, stationery, postage and other articles which may by said commissioners be required, and all claims and bills for rent and other expenses and purchases shall be allowed and audited and paid, as are all other claims against Montana; and the auditor shall draw his warrants therefor upon the territorial or state treasurer, as the case may be. The salary of the clerk of such commission shall be paid monthly by the auditor upon vouchers to be approved by the chairman of the commission.

SEC. 5. Upon the completion of any one of the said codes and upon filing the same accompanied with a general index and the report of the commission in relation thereto, as mentioned in section two of this act in the office of the secretary of the territory or state, as the case may be, it shall be the duty of the chief justice and the secertary of the territory or state, to examine the same and as soon as practicable to determine whether the work has been done as provided in this act: and if they so determine, they shall file their decisions with the state auditor, whereupon it shall be lawful for and the duty of such auditor to draw his warrant for the pro rata salaries of the commission under the provision of this act, and to be paid by him out of any funds not otherwise appropriated.

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SECTION 6. It shall be the duty of the auditor to cause to be printed as soon as practicable after it is approved and filed as aforesaid, five hundred copies of each of the said codes. Such printing shall be done in manner and form subject to the order and approval of the chief justice, attorney-general and secretary of state, but such codes shall be bound only in paper covers. When the said five hundred printed copies of any one of the said codes have been accepted and approved of said officers, or a majority of them, and have been delivered to the librarian of the Montana law library, it shall be the duty of the said chief justice, attorney-general and secretary of state, or any two of them, to certify to the correctness and justice of the bills for printing and delivery of such volumes to the auditor, who is hereby authorized upon the receipt of such vouchers to draw his warrant or warrants for the amount thereof, upon the treasurer of the territory or state, as the case may be, to be paid by him out of any funds not otherwise appropriated. The volumes when delivered as aforesaid shall be distributed, or a sufficient number thereof, to the following officers or persons, who shall each be entitled to receive one copy of each of the said codes: The governor, secretary, auditor, treasurer, superintendent of public instruction, attorney general, the several judges of the supreme courts and the judges of the probate courts of the several counties and the members of the bar in Montana. The librarian shall reserve one hundred and fifty copies of each of said codes for the use of the legislative assembly of Montana.

Approved, March 14, 1889.

## COUNTY ATTORNEYS.

AN ACT to amend section 845 of chapter 64, fifth division of Compiled Statutes, relating to county attorneys, and to repeal an act entitled "An act relative to county attorneys," approved September 14, 1887.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section 845 of chapter 64, fifth division of the Compiled Statutes of Montana, be and the same is hereby amended so as to read as follows: Section 845. It shall be the duty of each county attorney in his county to sign all bills of indictment that may be found by the grand jury, and to prosecute and defend, on behalf of the people, all public prosecutions and civil actions arising in his county, before the district and probate courts wherein the territory of Montana, or the county in which he is elected, is a party. He shall also, when requested so to do by the attorney general, appear in all cases before the supreme court of the territory where the people of his county are interested, and which may be appealed from his county, and he shall prepare and present to the supreme court any such appealed case, subject, however, in all such appealed cases to the advice, approval and assistance of the attorney general of the territory. He shall also, when practicable,

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appear on behalf of the people and prosecute all criminal proceedings in the justice courts of his county. He shall, when requested by any grand jury or grand juror, give his opinion on any matter of law pertaining to the duties of grand jurors, and shall be the legal advisor of all territorial, county, school and township officers within his county, and shall, when requested by any of such officers, give his opinion on any matters of law pertaining to their duties, without fee or compensation. He shall prosecute all actions and proceedings for the forfeiture of bonds, undertakings and recognizances, when the territory is a party or when the county or territory is interested. And no other attorney or counsel shall be employed or paid by any county, for any services herein required to be performed by the county attorney thereof, unless such services were rendered to and for the county, and the additional counsel employed, by the advice and upon the recommendation of the county attorney, or acting county attorney, as the case may be: *Provided*, That in any case or proceeding, when the county attorney of a county is personally interested in the result thereof, or where from any cause he is disqualified to act, the district judge upon a proper showing made by affidavit (which affidavit shall set forth the facts constituting such disqualification), may in his discretion make an order authorizing the county commissioners of such county to employ additional counsel, and such counsel so employed shall receive such compensation for his or their services as the district court may by an order allow, and such compensation shall be allowed and paid as are other claims against such county. *And provided*, That in any criminal case or matter being investigated by a grand jury in which the county attorney is interested, or fails to perform his duties as such officer, the district judge may in his discretion upon a proper showing appoint some other attorney of the court to prosecute the case and discharge all the duties of the county attorney in such cause or matter. And the said attorney so appointed shall receive such compensation for his services as the court, by order, shall allow, not to exceed the sum of twenty-five dollars in any one case. *And provided further*, That such application may be made to the district judge of the district in which the county is situated, either at chambers or in term time, and written notice of the hearing thereof shall be served upon such county attorney.

SEC. 2. All acts and parts of acts in conflict herewith, particularly an act entitled "An act relating to county attorneys," approved September 14, 1887, be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved, February 13, 1889.

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## COUNTY COMMISSIONERS.

AN ACT to Provide for Filling Vacancies in the Office of County Commissioners.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That when a vacancy shall occur in the office of county commissioners in any county, the probate judge in the county in which the vacancy occurs shall appoint some suitable and qualified elector to perform the duties of such office. Such officer so appointed shall hold his office until the general election next following such appointment. Should the term of office be not expired at such general election, then the qualified electors at such general election shall choose some person to fill the unexpired term of said office. And in case there are two or more county commissioners to be elected at such general election the electors shall designate which person voted for is to fill the unexpired term.

SEC. 2. This act shall take effect and be in force from and after its passage. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 14, 1889.

## COUNTY TREASURERS.

AN ACT requiring county treasurers to advertise in a newspaper a list of all warrants that they have funds in their hands to redeem.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That in addition to the notice provided for by section 793, fifth division general laws of the compiled statutes of Montana, the county treasurers of the several counties of this territory shall on the first Monday of every month or as soon as possible thereafter, advertise in one newspaper published in their respective counties a list of all warrants that they have funds in their hands to redeem or pay, the payment for which has not been demanded during the month last past.

SEC. 2. This act shall take effect on the first Monday of April, 1889.

Approved, March 12, 1889.

## COSTS.

AN ACT giving costs in certain cases.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. Costs shall be awarded by the district court to the plaintiff in an action to recover damages for trespass upon real property brought in that court without respect to the amount of the damage recovered.

SEC. 2. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

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SEC. 3. This act shall take effect and be in force from and after its passage.

Approved, March 14, 1889.

DIVORCE CASES—ALIMONY.

AN ACT to amend Section One Thousand and Four of Chapter Fifty-Eight of the Compiled Statutes of Montana, concerning Alimony in Divorce Cases.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That section one thousand and four of chapter fifty-eight of the fifth division of the general laws of the Compiled Statutes of Montana be amended so as to read as follows: Section 1004. When a divorce shall be decreed it shall and may be lawful for the court to make such order touching the alimony and maintenace of the wife, the care and custody of the children or any of them, as from the circumstances of the parties and nature of the case, shall be fit, reasonable and just, and in case the wife be complainant, to order the defendant to give reasonable security for such alimony and maintenance, or may refuse the payment of such alimony and maintenance in any manner consistent with the rules and practice of the court; and the court, or judge in chambers, may also grant alimony a pendente lite and may make any restraining order concerning the property of the defendant in the discretion of the court or judge, and the court or judge may, on application from time to time, make such allowances or alterations in the allowances of alimony and maintenance as shall appear reasonable and just: *Provided*, That no order for alimony shall be made until notice of the time and place of the hearing shall be served upon the opposite party in cases when such party has appeared, and in all other cases the notice shall be served upon the clerk of the court in which the action is pending.

Approved, March 2, 1889.

DOWER RIGHTS—INSANE MARRIED WOMEN.

AN ACT authorizing the conveyance of the dower rights of insane married women.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That whenever the wife of any person shall have become insane, imbecile or idiotic, or from any cause shall be unable from defective intellect to join her husband in the conveyance of real estate, and shall have remained in that condition for more than two years, or when it shall be made to appear to the court or judge that such married women is incurably insane, she may be barred of her right of dower in the lands of her husband, in the manner following, to-wit:

SEC. 2. The husband or any person interested in such real estate, may apply to the district court or judge of the county where

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such lands, or part of such lands are situated, by petition under oath, for the appointment of a guardian, and for leave to sell her inchoate right of dower; which petition shall state: First, the name, age and residence of such married women, and the name, residence and age of her husband, as near as can be ascertained. Second, the nature of the disability of said married woman, and the length of time it has existed. Third, a full description of the lands and premises in this territory to be affected by such proceedings. Fourth, the value of each piece of real estate, and the amount of incumbrance upon it (if any) not affected by, or prior to her claim of dower. Fifth, if the real estate is to be sold by the husband, or has been sold by him, the exact amount of the consideration of such sale as made or agreed upon. Sixth, the reasons why such sale is desirable to said husband or petitioner.

SEC. 3. Upon the filing of such petition the said district judge or court shall enter an order that the petition be heard on a certain day, and notice of the hearing be given by publication or otherwise, in such manner and to such person as said judge or court shall direct.

SEC. 4. At such hearing the said wife may appear by council, or by guardian ad litem appointed as in other cases by said court or judge, and may answer such petition in the time and manner said court or judge may direct; and upon the filing of an answer the case shall be deemed at issue, or if the said wife shall fail to appear as herein provided, the judge or court shall appoint some competent attorney on behalf of such wife and proceed summarily upon written evidence taken under its orders to hear and determine the case; or at its discretion may refer it to a court commissioner appointed by the court or judge for the purpose, to take proofs and report the same to the court or judge with his opinion. First, as to the insanity or imbecility of the respondent; second, as to the propriety or necessity of selling said real estate, or of barring said respondent's right of dower therein; third, the cash value at the time of her dower interest in said premises, taking into consideration the respective ages of said husband and wife. Upon the coming in of said report the court or judge shall consider the same, and enter such order as shall be just and equitable. If said court or judge shall decide that the respondent is insane and that it is desired that the right of dower should be barred, it shall fix the then present value of such dower, and thereafter shall appoint a guardian of such insane person, who shall be some person other than her husband, who shall give a bond in a sum to be fixed by the court or judge, with surety or sureties to be approved by the court, conditioned to receive and invest any money that may come into his hands for her sole use and benefit, under the order and direction of the court or judge, both as to its investment and to the disposition ef the income thereof.

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SEC. 5. Upon the approval of such bond said guardian may proceed and sell at private sale as such guardian, the interest of such married woman in said land, at a sum not less than the value of said dower as fixed by said court. He may join with the husband in such conveyance; or if the husband has previously sold and conveyed said property, may, by separate conveyance, deed said right of dower to the husband's grantee or grantees, his or their heirs and assigns, but to no other person. Said conveyance shall in such cases be as effective to bar the right of dower of said married woman as if she had, being in sound mind, joined her husband in a deed of said premises.

SEC. 6. Said guardian shall apply the income of said money to the support of said married woman, or allow the same to accumulate, as the court may direct. And upon the restoration of said married woman to sound mind, shall, upon the order of the court, transfer to her all the funds in his hands, and upon her death shall deliver the same to her husband, if he shall be living at her death. If not living, then to her heirs at law; or in case such wife have no heirs at law, then to the heirs at law of her husband.

SEC. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 8. This act shall take effect from and after its passage.

Approved, March 13, 1889.

## DRUGS.

AN ACT to prevent the sale of certain noxious drugs.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. No person or persons or corporation shall sell or in any way dispose of to any person any morphine, opium, cocaine, chloral hydrate, or any of their compounds, except to regularly licensed physicians or on the authority of a certificate of a regularly licensed physician; and on the receipt of any of the above mentioned drugs or their compounds by the buyer said certificate shall be surrendered to the seller, and upon its surrender it shall become in effect null and void.

SEC. 2. All such certificates shall be kept on file by the party or parties to whom surrendered and subject to the inspection of any person desiring so to do.

SEC. 3. Any person or persons or corporation who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of one hundred dollars, or imprisonment in the county jail for the term of sixty days, or both such fine and imprisonment.

SEC. 4. This act shall take effect from and after its passage.

Approved, March 14, 1889.

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ELECTIONS—REGISTRATION.

AN ACT to provide for the registration of the names of electors and to prevent fraud at elections.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. The boards of county commissioners of the several counties in Montana shall at their regular meeting to be held in June, 1889, and thereafter at each regular June meeting to be held every general election year, lay out their several and respective counties in convenient election districts, which shall be numbered and known as election district No. 1, election district No. 2, and so on. There shall not be less than two nor more than twenty election districts in any single county. The county commissioners shall, in creating and establishing said election districts, include in any one district as many polling places and precincts as shall be necessary and convenient for the voters of the said election district, wherein such voting precincts may be established. The polling precincts shall be established as may be provided by general laws; *Provided*, That in June, 1889, the election districts to be established under this law shall be established with reference to, and to include every precinct where votes were cast at the last general election in Montana held prior to June, 1889; but no voting precinct shall be established after the first day of registration as herein provided. And at any regular meeting after June, 1889, and prior to the first day of registration as herein provided, the county commissioners shall have discretionary power, on petition of ten qualified voters within any election district, to vacate, change, consolidate, remove or establish any voting precincts within the districts established as herein provided for; *Provided*, After June, 1890, no increase or decrease shall be made in the number of such election districts oftener than once in two years.

SEC. 2. There shall be one registry agent for each election district created pursuant to this act. All registry agents shall be competent persons and shall be appointed by the board of county commissioners. They shall be resident freeholders and qualified voters in the several election districts for which they shall be appointed. They shall be, and are hereby empowered and authorized to administer oaths and affirmations and to do such other acts as may be necessary to fully carry out the provisions of this act; *Provided*, except as herein provided for, the first registry agents to be appointed under this act shall be appointed by the county commissioners of the several counties at their regular meetings in June, 1889, and they shall hold their offices until June 4th, 1890, and until their successors are appointed and qualified; *Provided further*, That no person a candidate for, or who holds a territorial, county or other office shall be eligible to or hold the office of register of elections. All registry agents shall be

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appointed biennially each regular general election year at the regular June meeting of the board of commissioners and shall hold their offices for the period of two years, except as herein otherwise provided, but they shall be subject to removal at any time by the board of county commissioners; *Provided*, That in any election district wherein any incorporated city containing five thousand population or more, is situated, it shall be lawful for the county commissioners to appoint two registry agents, and in any district where two registry agents shall be so appointed, the county commissioners shall allot, by order entered upon their minutes, to each of such agents, the particular precincts in which such agents shall make the registration under this act.

SEC. 3. It shall be the duty of the chairman of the board of county commissioners of any county in Montana, when he shall have received notice from any responsible citizen, of the death, disqualification or resignation of any registry agent, after the opening and prior to the closing of the books of registration, to immediately, without giving notice, appoint some competent person to fill such vacancy, and it shall be the duty of such person so appointed to qualify within two days after receiving notice of such appointment. Should such person so appointed fail to qualify within the time herein provided, voters may, upon producing evidence as to their right to vote, be registered in any other district in said county, and any person so registered in any other district shall, upon presentation and surrender of a certificate of registration signed by the registry agent of said district, be considered a legal voter in the precinct of the district in which he is a resident. *Provided*, This section shall not be so construed as to interfere with the right of the full board of commissioners to make such appointment except in cases herein provided. If any person applies to be registered in any district other than the one in which he resides, and is entitled upon proof to a certificate of registration, as provided for in this section, such applicant, in addition to the proof required by this act to entitle him to registration, shall take and subscribe to an oath before the registry agent, in substantially the following form:

..... Montana, ..... 18.....

I do solemnly swear that I make this application for registration in district No.. . of...., county of...., Montana, because there is no registry agent within election district No. . ., which is the district where I reside and am entitled to vote.

Subscribed and sworn to before me this .... day of ....., 18...

.....,

Registry Agent.

Whereupon such person shall receive from the registry agent of such district a certificate, which said certificate shall bear the registry seal and be substantially as follows, to-wit:

Registration Certificate.

I hereby certify that ..... is a citizen of the United States, or

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has declared his intention to become such, of the age of .... years, and has been a resident of Montana for the past .... consecutive months, and a resident of ..... county for .... months and of the precinct for more than .... days, and that he is in all respects a qualified registered elector under the laws; and I further certify that the reason he applies for and that I grant this registration certificate is because within election district No. .., where he resides, there is no registry agent. And I further certify that he is under the laws entitled to vote in the .... precinct of election district No. .., .... county, Montana.

Witness my hand and seal of office in election district No. .., .... county, Montana. .....,

[Seal.] Registry Clerk.

Election District No. .., .... County, Montana.

SEC. 4. The county commissioners of the several counties shall provide for the registry agents in their respective counties when and where required all proper and necessary books, seals and stationery to carry out the provisions of this act (particularly printed copies of this act). They shall furnish to each registry agent a bound book, which shall be known as the "official register," which shall be ruled in columns of suitable dimensions to provide for the following entries opposite the name of each elector, to-wit: First, number on the register; second, date of registry; third, name of elector; fourth, age of elector; fifth, where born; sixth, number of ward or name of electoral precinct; seventh, description of residence; eighth, certificate of naturalization exhibited, or certificate of declaration of intention to become a citizen, or a certified copy thereof. They shall also furnish each registry agent with a seal upon which shall be engraved substantially as follows: .... county, Montana, Registry seal, election district No. ... The name of the county and the number of the election district shall be engraved upon such seal to correspond to the county and election district in which such seal is to be used.

SEC. 5. It shall be the duty of the registry agents at any time when called upon to do so at their respective offices between the hours of two p. m. and eight p. m. on all legal days from and after the fifteenth day of September to the fifth day of October, and between the hours of ten a. m. and ten p. m. from the fifth day of October to and including the fifteenth day of October, prior to any general election, not herein otherwise provided for, to receive and register the names of all persons legally qualified and entitled to vote at such election, or who will have legally acquired a residence (being otherwise qualified) and who have a right to vote at such ensuing election according to the provisions of law under which such election may be held in each election precinct within their respective districts. Registry agents shall enter on the official register, under the proper heading the number and date of registry, the name (with the first or given name in full), the age and nativity of

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the elector, together with the number of the ward (if within an incorporated town or city), the name of the precinct, and a particular description of the house, building or room in which the elector resides; such as will enable a person of common understanding to find the same without difficulty, and when the person so registered shall be of foreign birth the fact of the exhibition of, or failure to exhibit his certificate of naturalization, or certificate of declaration of intention to become a citizen, or a certified copy thereof, shall be noted in the column provided for that purpose, which list properly entered as in that section required, shall be known as the "official register" of elections of their respective districts: *And provided further*, That if any person shall fail or refuse to give his residence with the particularity required in this section, he shall not be registered. The registry agents shall cause to be published in at least one newspaper published within their respective districts, and if there be no newspaper published in such districts, then in a newspaper published at the nearest point to their district, and within the county in which such district is situated, for twenty days before the expiration of the time provided for registrations prior to any general election, a notice signed by the registry agent to the effect that the time for the registration of the names of the qualified electors in election district No....., giving, also, the names of the several precincts or polling places embraced in such election district, prior to the ..... election (specifying the election), to be held on the ..... day of ....., A. D. 18...., for the county of ....., Montana, will expire at ten o'clock p. m. on the .... day ....., A. D. 18..... The publication of said notice shall continue until the expiration of the time provided for said registration: *Provided*, That in remote or new and sparsely settled precincts, printed notices posted at not less than five conspicuous places within said district shall be substituted for the publication in a newspaper.

SEC. 6. Every person applying to be registered shall, before he shall be entitled to have his name registered, take and subscribe the following oath or affirmation, which shall be administered by the registering agent: *Provided*, That no elector who has taken said oath at the time of his previous registration in Montana, shall be required to do so the second time, to wit: I do solemnly swear, or affirm, that I am a citizen of the United States (or, that I have declared my intention to become a citizen of the United States): that I am of the age of twenty-one years, and will have actually and not constructively been a bona fide resident in Montana six months, and in the county thirty days next preceding the day of the next ensuing election, and that I am not registered elsewhere in Montana for this electoral year, so help me God (or under the pains and penalties of perjury). Whenever an oath is required by the provisions of this act, the elector shall swear according to the form of his re-

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ligious faith or belief, and in such manner as may be considered most obligatory on his conscience. The registry books and lists shall be open at any time for inspection by any qualified elector.

SEC. 7. When any person shall appear and demand to be registered whom the registry agent shall not know to be entitled to registry under the qualifications required by law, for the election then ensuing the registry agent shall question the applicant generally under oath, as to his qualifications as an elector, and, if satisfied, shall enter his name in the registry, but if the registry agent shall not be fully satisfied or if the applicant be challenged by a qualified elector of the county, stating distinctly the grounds of challenge, the registry agent shall require the applicant to answer truly, under oath or affirmation, the following questions, together with such other questions as said registry agent may consider necessary or proper, testing his qualifications as an elector for the ensuing election, to wit.: First, are you a citizen of the United States, or have you declared your intention to become such? Second, are you now or will you be twenty-one years of age prior to the day of the next ensuing election? Third, on the day of the next ensuing election, will you have actually and not constructively resided in Montana six months, and in this county thirty days next preceding the day of said election? Fourth are you now a resident of the said election district in which you propose to be registered? Fifth are you registered for this electoral year in any other election district in the name you have now given, or in any other name? If any of the foregoing questions shall be answered in the negative except the fifth, or that in the affirmative, the applicant shall not be registered; but if the applicant answer all the foregoing questions in the affirmative except the fifth, and that in negative, the applicant shall be registered. A resident within the meaning of this act shall be construed to mean a person who has resided or will have resided continuously within Montana for six months, and in the county thirty days, as prescribed by law, next preceding the day of the next ensuing election. The electoral year shall commence the first day of January, and end on the thirty-first day of December of each year. Whenever a person is registered under the provisions of this act, such registration shall hold good for two years: *Provided, however*, that such persons shall retain all the necessary qualifications of an elector, as defined in this act; *And provided further*, that a change of residence in precinct, county or district, shall require a new registration.

SEC. 8. When a naturalized citizen, or a person who has declared his intention to become a citizen, shall apply for registration, his certificate of naturalization or certificate of intention to become a citizen, or certified copy thereof, must be produced and stamped, or written in ink by the registry agent, with such registry agent's name and the year and county where presented, but if it shall satisfactorily appear to the registry agent, by the oath or

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affirmation of the applicant (and the oath or affirmation of one or more credible citizens as to the credibility of such applicant when deemed necessary) that such certificate of naturalization, or certificate of declaration of intention to become a citizen, or a certified copy thereof, is lost or destroyed, or beyond the reach of the applicant for the time being, said registry agent shall register the name of said applicant unless he be by law otherwise disqualified; *Provided*, That in case of failure to produce the certificate of naturalization, or certificate of declaration of intention to become a citizen, or certified copy thereof, the registry agent shall propound to him the following questions: First—In what year did you come to the United States? Second—In what state or territory, county, court and year did you declare your intention to become a citizen? Third—In what state or territory, county, court and year were you finally admitted to citizenship? Fourth—Where did you last see your certificate of naturalization, or your certificate of declaration of intention to become a citizen, or a certified copy thereof? The answers to the above questions shall be taken down in the form of an affidavit, which shall be subscribed and sworn to by the applicant and retained in possession by the registry agent, and by him handed over to his successor; *Provided*, That no person shall be required to make the affidavit twice before the same agent or the successor of such agent having in his possession a former affidavit.

SEC. 9. On the day next succeeding that on which the registration of electors, prior to any election mentioned in this act, shall have been closed, the registry agents shall, with all reasonable expedition and always within seven days, prepare and cause to be written or printed, a full and complete and true list of all the names registered by them, and then remaining on the official register for each election precinct, alphabetically arranged, commencing always with the surname of each, and they shall have written or printed such reasonable number of copies of each election district list as they may deem necessary, showing on one sheet, but under separate headings in such list, the registered voters in each polling precinct in the district, at least five copies of which said lists they shall cause to be posted up in as many public and conspicuous places within each and every precinct in the district to which they apply; each registry agent shall, as soon as such lists are printed or written, subscribe and make oath to one copy thereof as being a true and correct and complete list of all electors registered in his election district from the commencement to the close of the registration in such district. And shall within two days after the publication or writing of such lists, deliver personally or by registered letter such verified copy to the county clerk of the county, to be by him posted in a conspicuous place in his office until election day, and thereafter filed away as are other records of the county, and the remainder of such lists shall be distributed among the electors



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of the respective precincts. The registry agents shall give notice in said lists that they will receive objections to the right to vote on the part of any person so registered until six o'clock p. m. on the seventh day previous to the day of election; and also requesting all persons whose names may be erroneously entered in said lists to appear at his office and have such error corrected. Such objections to the right of any person registered to vote shall be made only by a qualified elector in writing, setting forth the ground of objection or disqualification and sworn to, or affirmed to, to the best of his knowledge and belief. The registry agent before whom any such affidavits of objection are made shall carefully preserve the same and deliver them with the "check lists" and other papers required by this act to be delivered to the judges of election, as is herein provided for, and he shall write distinctly opposite to the name of any person to whose qualifications as an elector objections may be thus made, the words "to be challenged," or words to that effect. It shall then be the duty of the judges of election, if on election day such person who has been objected to applies to vote, to test under oath his qualifications, and if he shall be found to be a disqualified voter for any cause under the law, or if he refuses to take an oath of his qualification, he shall not be permitted to vote.

SEC. 10. During the time intervening between the closing of any registration of electors and the day of the next ensuing election the registry agent shall carefully copy from the official register into suitable books, one for each election precinct within their respective districts, the names of all electors registered for such election precinct, alphabetically arranged (the surname first), entering opposite each name the number it bears on the official register, together with words requiring challenges and all other entries therein found, opposite the name. The registry agent shall also prepare and complete, not later than two days next preceding that on which the election is to be held, in "index books," one for each election precinct, and which shall be known as the "check lists," lists of the names of all electors found on the official register, for such election precincts, alphabetically arranged (the surname first), with the number such name bears in the official register, placed at the left of the name of the elector, and with a blank column at the right of the column of names, formed by two parallel perpendicular lines, in which the judges of election shall check the names of those voting by some particular character, thus "V" for voted; said blank columns last mentioned shall have written headings made by the registry agents, showing what particular election the said "check lists apply to, as, for instance, "Voted at the general election 1888." The copy of the official register, together with the "check list" for election precinct as herein provided, shall be carefully prepared and duly certified to by the registry agent, and delivered together with affidavits of objection to some one of the judges of election, in each election precinct at a time not later than the day

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next preceding that on which such election is to be held, and such "check lists" shall be carefully preserved, and any surrendered certificates which may have come into the hands of such registry agents pursuant to this act and after election they shall be transmitted by the judges of election to the clerk of the board of county commissioners in connection with and as a part of the "election returns," as provided by law: *Provided*, that if any registry agent fails or refuses to furnish to the judges of election of any precinct, lists of the registered voters in said precinct, as provided for in this section, the judges of election are authorized to take a copy of the printed or written list of registered voters in said precinct as provided for in this act, and conduct the election in said precinct in accordance with the provisions of this act, and their returns shall show the reason for using the printed or written list instead of the registered list, at such election.

SEC. 11 Any registered elector moving from one election district to another, within Montana prior to the day of the ensuing election, may apply to the registry agent before whom he has already been registered for that electoral year at any time prior to the last day of the registration of voters, and have his name taken off the official register, and receive from the registry agent a certificate, to be called a territorial or state registry certificate, under the signature and seal of the registry agent, showing substantially that he was on a certain day duly registered in the official register of election district No....., in the county of ....., Montana, and that his name has been erased at his own request, which certificate will entitle him to have his name registered within the period of registration in the same manner as other names are registered in any other election district, either within the same county or in any other county, for said election: *Provided*, it shall satisfactorily appear to the registry agent receiving the certificate and to whom application is made for the second registration, that the applicant will have resided such length of time within such county and election district prior to the next ensuing election, as is or may be provided by law to entitle him to vote. And in case any registered and qualified elector who has had delivered to him a territorial or state registration certificate pursuant to this section and who has for good cause been unable to register the second time anywhere within Montana, before the date of the closing of the registration books, may offer a vote at any precinct within the county where he resides and was registered to vote, or in any precinct in the county, but not the precinct where he lives and was registered, the judges of election shall challenge such person pre-emptorily and put to him under oath such questions making him prove his identity as the person to whom such certificate is issued, and such other questions as may to them seem proper, in order to fully test such person's qualification, and if he be disqualified for any cause, or fail or refuse to answer any question concerning his qualifications, or if he

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fail to identify himself, he shall not be permitted to vote: but if he be qualified he shall surrender his certificate and the judges shall enter his name on the lists and he shall be entitled to vote.

SEC. 12. Before entering upon the duties prescribed in this act, the registry agents shall severally take and subscribe before an officer duly authorized to administer oaths, the following oath or affirmation, which shall be filed in the office of the county clerk, of their respective counties, to wit.: I,..... registry agent for election district No.... in the county of ....., Montana, do solemnly swear (or affirm) that I will perform all the duties of registry agent, in and for said election district according to law and the best of my ability, and that in the discharge of my duties as such registry agent I will honestly endeavor to prevent fraud, deceit or any other manner of abuse of the elective franchise, so help me God (or under the pains and penalties of perjury).

SEC. 13. The several registry agents shall be entitled to receive as full compensation for all services rendered by them under the provisions of this act, such sums as may be allowed by the county commissioners, and such compensation may be a per capita of twenty-five cents for each and every qualified elector registered in each electoral year, or it may be a per diem not to exceed five dollars; in no event shall a registry agent receive more than at the rate of five dollars per day, whether the basis of his compensation be a per capita or otherwise, which shall be valid claims against their respective counties, and their accounts shall be made out so as to clearly show the number of names by them severally registered during that electoral year, and sworn to and filed with the board of county commissioners of their respective counties, and said claims, together with all other just and reasonable demands of other persons for books, advertising and printing, necessarily incurred in carrying out the requirements of this act, shall be audited and paid out of the general funds of the several counties as other county charges.

SEC. 14. No person shall be entitled to vote at any election mentioned in this act. except as o herwise provided in this act, unless his name shall on the day of election appear in the "check lists" or copies of the official register furnished by the registry agents to the judges of election, of the election precinct at which he offers to vote, or unless he produces and surrenders a county registry certificate or a territorial or state registry certificate as provided in sections two and eleven of this act, and the fact that his name so appears in the "check lists" and in the copy of the official register in the possession of the judges of election shall be prima facie evidence of his right to vote; *Provided*, That when the judges of election shall have good reason to believe, or when they shall be informed by a qualified elector, that the person offering to

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vote is not the person who was so registered in that name, the vote of such person shall not be received until he shall have proved his identity as the person who was registered in that name.

SEC. 15. Any person who shall vote or offer to vote at any election mentioned in this act, but who shall not be a qualified elector, or any person who, being a qualified elector, shall vote in the name of any other registered elector, shall be deemed guilty of a felony, and on conviction thereof before any court of competent jurisdiction shall be punished by imprisonment in the penitentiary for not less than one nor more than three years, and any person who shall wilfully cause or endeavor to cause his name to be registered in any other election district than that in which he resides, except as herein otherwise provided, or will reside prior to the day of the next ensuing election; and any person who shall cause or endeavor to cause his name to be registered, knowing that he is not a qualified elector, or will not be a qualified elector on or before the day of the next ensuing election, in the election district in which he causes or endeavors to cause such registry to be made, and any other person who shall induce, aid or abet any such person in the commission of either of such acts in this section enumerated and described, shall be deemed guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction, shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars, or by confinement in the county jail for not less than one month nor more than six month, or by both such fine and imprisonment, in the discretion of the court.

SEC. 16. All wilfull, corrupt and false swearing or affirming before any registry agent, shall be deemed perjury and on conviction shall be punished as such. If any registry agent, or any other person in any manner concerned shall wilfully and corruptly permit any person not entitled to registration or to a certificate of registration, to be registered or have a certificate of registration, or who delays or fails to deliver the certified copies of the official register and the "check list" to the judges of election as required by this act, or who permits any person to register after the date on which the registration books close, or who shall otherwise wilfully and corruptly violate any of the provisions of this act, the penalty for which is not herein specially prescribed, he shall be punished for each and every offense whereof he shall be duly convicted by imprisonment in the penitentiary for a term of not less than one year nor more than five years, or by a fine not less than one hundred nor more than one thousand dollars, or by both such fine and imprisonment, in the discretion of the court.

SEC. 17. For the purpose of enabling the several boards of county commissioners of the counties of Montana to carry out the provisions of this act and create election districts, appoint registry agents and do such other and proper acts to fully comply with the intent hereof, it shall be lawful for said boards at their regular

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meetings to convene on the first Monday of June, 1889, to sit in regular session two days in addition to the five days, now by law allowed to them for session, and in order to secure uniform action in all the counties, the commissioners are hereby required to set apart Wednesday and Thursday, the fifth and sixth days of June, 1889, for action under the provisions of this law, on which days they shall perform all acts necessary and proper and requisite herein to be done, and the county attorneys of the several counties are hereby required to be present on such days and advise and assist said boards in proceedings under this law.

SEC. 18. In order to carry into full force and effect the provisions of this act and to provide for the registration of voters for the election of state officers and other purposes, to be held within Montana territory on the first Tuesday of October, 1889, pursuant to the terms of an act of Congress relating to the admission of Montana and other territories approved February 22d, 1889, and to permit and require the registration of voters prior to, and for the purposes of such election, the registry agents to be appointed in June, 1889, or the successors to such registry agents shall enter upon their duties not later than August 1st, 1889; and they shall at any time they may be called upon to do so, at their offices, between the hours of two p. m. and eight p. m. on all legal days from and after the fifteenth day of August, 1889, to the fifth day of September, 1889, and between the hours of ten a. m. and ten p. m. from the fifth day of September to and including the fifteenth day of September, 1889, previous to such election, receive and register the names of all persons legally qualified and entitled to vote at such election, according to the provisions of the act of congress hereinbefore cited and the provisions of this act, and the law under which such election may be held. The registry agents shall publish notices as to when registration will close for twenty days before the expiration of the time provided for registration prior to such election, as is provided for in section five of this act; and they shall within seven days after the registration of electors is closed, that is to say within seven days after the fifteenth day of September, 1889, prepare and cause to be written or printed the lists of names registered by them in the manner and way prescribed by section nine of this act. They shall also give notice in the list of voters prepared as herein provided, that they will receive objections to the right to vote on the part of any person registered, until six o'clock p. m. on the seventh day previous to the first Tuesday of October, 1889, in the manner generally provided for in section nine of this act, and no person shall be permitted to vote at such election unless registered or possessed of a registry certificate as by the terms and provisions of this act required. Registry agents shall forward the verified copies of such lists of voters to the county clerk and shall make up their copies of official registers and check lists and deliver the same with affidavits and certified

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certificates and all other papers required by this act to be delivered to the judges of election and shall do any and all other acts requisite and necessary to be done in the manner generally prescribed by this act, and they shall be governed hereby. All returns of such elections shall be made out and canvassed and certified to according to the election laws of Montana then in force, and abstracts of votes shall be made and certificates issued accordingly.

SEC. 19. It is hereby made the duty of the county commissioners and county clerks of the several counties in Montana to cause to be made full and minute entries of all proceedings had under this act, and to cause full copies of such proceedings and appointments of registry agents, judges, etc., to be published in a newspaper published within their respective counties as soon after their adjournment as is practible, and it is hereby made the duty of the county clerks of the several counties to immediately notify in writing the registry agents of their appointment.

SEC. 20. Sections 1020 and 1021, fifth division, Compiled Statutes, Montana, and all acts and parts of acts in conflict with this act are hereby repealed; *Provided*, Nothing in this act contained shall be construed to affect the laws regulating the registration of voters in municipal elections as provided for by the municipal incorporation laws of Montana, and by an act entitled "An act concerning the registration of voters in incorporated cities," approved March 10th, 1887, or to affect or repeal the laws in force regulating the election of school trustees as provided for by section 1880, fifth division, Compiled Statutes of Montana.

SEC. 21. This act shall take effect March 15th, 1889.

Approved, March 8, 1889.

## ELECTIONS—BALLOTS AND VOTING.

AN ACT to provide for printing and distributing ballots at the public expense, and to regulate voting at territorial and other elections.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. All ballots cast in elections for public officers within Montana, (except school district officers) shall be printed and distributed at public expense as hereinafter provided. The printing of ballots and cards of instruction for the electors in each county, and the delivery of the same to the election officers, as hereinafter provided, shall be a county charge, the payment of which shall be provided for in the same manner as the payment of other county expenses, but the expense of printing and delivering the ballots shall in the case of municipal elections be a charge upon the city or town in which such election shall be held.

SEC. 2. Any convention or primary meeting, as hereinafter defined, held for the purpose of making nominations to public office, and also electors to the number hereinafter specified, may nominate candidates for public office to be filled by election within the terri-

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tory. A convention or primary meeting within the meaning of this act, is an organized assemblage of electors or delegates representing a political party or principle.

SEC. 3. All nominations made by such convention or primary meeting shall be certified as follows: The certificate of nomination, which shall be in writing, shall contain the name of each person nominated, his residence, his business, his business address, and the office for which he is named, and shall designate in not more than five words, the party or principal which such convention or primary meeting represents, and it shall be signed by the presiding officer and secretary of such convention or primary meeting who shall add to their signatures, their respective places of residence, their business and business addresses. Such certificates made out as herein required shall be delivered by the secretary or president of such convention or primary meeting, to the secretary of the territory or to the county clerk as hereinafter required.

SEC. 4. Certificates of nomination of candidates for offices to be filled by the electors of the entire territory, or of any division or district greater than a county, shall be filed with the secretary of the territory. Certificates of nomination for county and precinct officers shall be filed with the clerks of the respective counties wherein the officers are to be elected. Certificates of nomination for municipal offices shall be filed with the clerks of the respective municipal corporation wherein the officers are to be elected. The certificate of a nomination for joint member of either branch of the legislative assembly shall be filed in the offices of the county clerks of both counties to be represented by such joint member.

SEC. 5. Candidates for public office may be nominated otherwise than by convention or primary meeting in the manner following: A certificate of nomination containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in section three of this act, shall be signed by electors residing within the district or political division in and for which the officer or officers are to be elected in the following numbers: The number of signatures need not exceed one hundred when the nomination is for an office to be filled by the electors of the entire territory, and need not exceed ten when the election is for an office to be filled by the electors of a county, district or other division less than the territory, and need not exceed five when the nomination is for an office to be filled by the electors of a township, precinct or ward: *Provided*, That the said signatures need not all be appended to one paper. Each elector signing a certificate shall add to his signature his place of residence, his business and his business address. Such certificate may be filed as provided for in section four of this act, in the same manner and with the same effect as a certificate of nomination made by a party convention or primary meeting.

SEC. 6. No certificate of nomination shall contain the name of

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more than one candidate for each office to be filled. No person shall join in nominating more than one person for each office to be filled, and no person shall accept a nomination to more than one office.

SEC. 7. The secretary of the territory and the clerks of the several counties and of the several municipal corporations shall cause to be preserved in their respective offices for one year all certificates of nomination filed in their respective offices under the provisions of this act. All such certificates shall be open to public inspection under proper regulations to be made by the officers with whom the same are filed.

SEC. 8. Certificates of nominations to be filed with the secretary of the territory, shall be filed not more than sixty days and not less than thirty days before the day fixed by law for the election of the persons in nomination. Certificates of nomination herein directed to be filed with the county clerk shall be filed not more than sixty days and not less than twenty days before the election; certificates for the nomination of candidates for the municipal offices shall be filed with the clerks of the respective municipal corporations not more than thirty days and not less than three days previous to the day of election: *Provided*, That the provisions of this section shall not be held to apply to nominations for special elections to fill vacancies caused by death, resignation or otherwise.

SEC. 9. Not less than twenty nor more than thirty days before an election to fill any public office, the secretary of the territory shall certify to the county clerk of each county within which any of the electors may by law vote for candidates for such office, the names and description of each person nominated for such office, as specified in the certificates of nomination filed with the secretary of the territory.

SEC. 10. At least ten days before an election to fill any public office other than a municipal office, the county clerk of each county shall cause to be published in one or more newspapers within the county the nominations to office certified to him under the provisions of this act. The county clerk shall make such publications daily until the election, in counties where daily newspapers are published; but if there be no daily newspaper published within the county, two publications in each newspaper will be sufficient. One of such publications in each newspaper shall be upon the last day upon which such newspaper is issued before election. In the case of municipal elections such publications shall be made in one or more newspapers devoted to the dissemination of general news and published within the municipal corporation in which the election is to be held at least three days before the election, the publication to be daily until election, where there are daily newspapers; but if there be no daily newspapers published within the municipal corporation, one publication in each newspaper shall be sufficient.

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SEC. 11. Whenever any person nominated for public office, as in this act provided, shall, at least twenty days before election, except in the case of municipal elections, in a writing signed by him, notifying the officer with whom the certificate nominating him is by this act required to be filed, that he declines such nomination, such nomination shall be void. In municipal elections such declination must be made at least two days before the election.

SEC. 12. Should any person so nominated die before the printing of the tickets, or decline the nomination as in this act provided, or should any certificate of nomination be or become insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occuring of such vacancies proceed to fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made shall be executed in the manner prescribed for the original certificate of nomination, and shall have the same force and effect as an original certificate of nomination. When such certificate shall be filed with the secretary of the territory, he shall in certifying the nominations to the various county clerks, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And in the event that he has already sent forth his certificate he shall forthwith certify to the clerks of the proper counties, the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principal he represents and the name of the person for whom such nominee is substituted.

SEC. 13. When any vacancy occurs before election day and after the printing of the tickets, and any person is nominated according to the provisions of this act to fill such vacancy, the officer whose duty it is to have the tickets printed and distributed, shall thereupon have printed a requisite number of stickers and shall mail them by registered letter to the judges of election in the various precints interested in such election, and the judges of election whose duty it is made by the provisions of this act to distribute the tickets, shall affix such stickers in the proper place on each ticket before it is given out to the elector.

SEC. 14. Whenever a proposed constitution or constitutional amendment, or other question is to be submitted to the people of the territory for popular vote, the secretary of the territory shall duly, and not less than thirty days before election, certify the same

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to the clerk of each county in the territory, and the clerk of each county shall include the same in the publication provided for in section ten of this act. Questions to be submitted to the people of a county or municipality shall be advertised as provided for nominees, for office by said section.

SEC. 15. Except as in this act otherwise provided, it shall be the duty of the county clerk of each county to provide printed ballots for every election for public officers in which electors or any of the electors within the county participate, and to cause to be printed in the ballot the name of every candidate whose name has been certified to or filed with the county clerk in the manner provided for in this act. Ballots other than those printed by the respective county clerks according to the provisions of this act shall not be cast or counted in any election. Nothing in this act contained shall prevent any voter from writing or pasting on his ballot the name of any person whom he desires to vote for any office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter, and any voter may take with him into the polling place any printed or written memorandum or paper to assist him in making or preparing his ballot, except as hereinafter otherwise provided.

SEC. 16. Elections for school district officers are excepted from the provisions of the preceding section. In all municipal elections the duties specified in the preceding section as devolving on the county clerk shall devolve on the municipal clerk.

SEC. 17. All ballots prepared under the provisions of this act shall be white in color and of a good quality of news printing paper, and the names shall be printed thereon in black ink. Every ballot shall contain the name of every candidate whose nomination for any office specified in the ballot has been certified or filed according to the provisions of this act, and no other names. The names of candidates for each office shall be arranged under the designation of the office in alphabetical order according to surnames, except that the names of electors of president and vice president of the United States presented in one certificate of nominations shall be arranged in a separate group. Every ballot shall also contain the name of the party or principle which the candidates represent, as contained in the certificates of nomination. At the end of the list of candidates for each office shall be left a blank space large enough to contain as many written names of candidates as there are offices to be filled. There shall be a margin on each side at least half an inch wide, and a reasonable space between the names to be printed thereon, so that the voter may clearly indicate in the way hereinafter provided the candidate or candidates for whom he wishes to cast his ballot. Whenever the secretary of the territory has duly certified to the county clerk any question to be submitted to a vote of the people, the county clerk shall have printed on the regular ballots the question in such form as will enable the

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electors to vote upon the question so presented in the manner hereinafter provided. The county clerk shall also prepare the necessary ballots whenever any question is required by law to be submitted to the vote of the electors of any locality, and not to the territory generally. *Provided, however*, That in all questions submitted to the voters of a municipal corporation alone, it shall be the duty of the municipal clerk to provide the necessary ballots.

SEC. 18. The county clerk of each county shall provide for each election precinct in the county two hundred ballots for every fifty or fraction of fifty electors registered in the precinct. If there is no registry in the precinct, the county clerk shall provide ballots to the number of two hundred for every fifty or fraction of fifty electors who voted at the last preceding election in the precinct. *Provided, however*, that in municipal elections it shall be the duty of the municipal clerk to provide tickets as specified in this section.

SEC. 19. Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names or description of the candidates nominated for office, or in the printing of the ballots, the probate court of the county may, upon application of any elector, by order require the county or municipal clerk to correct such error, or to show cause why such error should not be corrected.

SEC. 20. Before the opening of the polls, the county clerk of the county, or the municipal clerk in the case of municipal elections, shall cause to be delivered to the judges of election of each election precinct which is within the county (or within the municipality in case of municipal elections) and in which the election is to be held, at the polling place of the precinct, the proper number of ballots as provided for in section eighteen of this act. He shall also deliver to the said judges a rubber or other stamp with ink-pad for the purpose of stamping or designating the official tickets, as hereinafter provided. Said stamp shall contain the words, "Official Ballot," the name or number of the election precinct, the name of the county, the date of the election, and the name and official designation of the clerk who furnishes the tickets. The judge of election to whom the stamps and ballots shall be given pursuant to this section shall be the same person who may be designated by the commissioners to post the notices required by section one thousand and thirteen, fifth division, compiled statutes of Montana. But in case it be impracticable to deliver such stamps and ballots to such judge, then they may be delivered to some other one of the judges of election.

SEC. 21. At the same time and in the same manner as judges of election are now appointed, two additional judges of election for each election precinct in the respective counties shall be appointed. The said additional judges of election shall be paid in the same manner and at the same rate as judges of election are now paid:

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*Provided, however*, That in election precincts where the registered voters do not exceed one hundred, the said two additional judges may not be appointed, and when such additional judges are not appointed, the duties devolving upon the judges as hereinafter provided shall be performed by the regular judges appointed to conduct the election. And in making the appointment of judges of election under this act and other election laws of Montana, not more than a majority of such judges of election shall be appointed from any one political party, for each precinct.

SEC. 22. All officers upon whom is imposed by law the duty of designating the polling places, shall provide in each polling place designated by them, a sufficient number of places, booths or compartments, which shall be furnished with such supplies and conveniences as shall enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from observation, and a guard-rail so constructed that only persons within such rail can approach within ten feet of the ballot boxes, or the places, booths or compartments herein provided for. The number of such places, booths or compartments shall not be less than one for every fifty electors or fraction thereof registered in the precinct. In precincts containing less than twenty-five registered voters, the election may be conducted under the provisions of this act without the preparation of such booths or compartments as required in this section, No person other than electors engaged in receiving, preparing or depositing their ballots, or a person present for the purpose of challenging the vote of an elector about to cast his ballot, shall be permitted to be within said rail, and in case of small precincts where places, booths or compartments are not required, no persons engaged in preparing their ballots shall in any way be interfered with by any person unless it be some one authorized by the provisions of this act, to assist him or them in preparing his or their ballot. The expense of providing such places or compartments, and guard-rails shall be a public charge, and shall be provided for in the same manner as the other election expenses. On or before the first day of September of each year in which an election is to be held, the officers now charged by law with the division or alteration of election precincts, shall, as far as necessary, alter or divide the existing election precincts in such manner that each election precinct shall not contain more than four hundred voters.

SEC. 23. At any election the judges of election shall designate two of said judges whose duty it shall be to deliver ballots to the qualified electors. Before delivering any ballot to an elector, the said judges shall print on the back and near the top of the ballot, with the rubber or other stamp provided for the purpose, the designation, "Official Ballot," and the other words on the said stamp as provided for in section twenty of this act. Each qualified elector shall be entitled to receive from the said judges one ballot.

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SEC. 24. On receipt of his ballot, the elector shall forthwith, and without leaving the polling place, retire alone to one of the places, booths, or compartments provided, to prepare his ballot. He shall prepare his ballot by marking a cross before or after the name of the person or persons for whom he intends to vote. For example, X; or in case of a ballot containing a constitutional amendment, or other question, to be submitted to the vote of the people, by crossing out therefrom parts of the ballot in such a manner that the remaining part shall express his vote upon the question submitted. Or the elector may write in the blank spaces or paste over another name the name of any person for whom he may wish to vote. In marking a ballot, any elector shall be at liberty to use or copy any unofficial sample ballot which he may choose to mark or to have had marked in advance of entering the polling place or booth; but no elector shall be at liberty to use or bring into the polling place any unofficial sample ballot printed in the exact style, manner, width or character of paper of the official ballot. After preparing his ballot, the elector shall fold it so that the face of the ballot will be concealed and so that the endorsement stamped thereon may be seen. He shall then vote forthwith and before leaving the polling place: *Provided, however*, That any elector who desires to vote for an entire group may mark a cross as above described against the political designation of such group, and shall then be deemed to have voted for all the persons named in such group whose names shall not have been erased.

SEC. 25. Not more than one person shall be permitted to occupy any one booth at one time, and no person shall remain in or occupy a booth or compartment longer than may be necessary to prepare his ballot, and in no event longer than five minutes. *Provided*, that the other booths or compartments are occupied.

SEC. 26. Any voter who shall by accident or mistake spoil his ballot may on returning said spoiled ballot, receive another in place thereof.

SEC. 27. Any voter who declares to the judges of election, or when it shall appear to the judges of election that he cannot read, or that by blindness or other physical disability he is unable to mark his ballot, shall, upon request, receive the assistance of one or two of the election officers in the marking thereof, and such officer or officers shall certify on the outside thereof that it was so marked with his or their assistance, and shall thereafter give no information regarding the same. The judges may, in their discretion, require such declaration of disability to be made by the voter under oath before them, and they are hereby qualified to administer the same. No elector, other than one who may, because of his inability to read, or physical disability, be unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote, or to ask or receive the as-

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sistance of any person within the polling place in the preparation of his ballot.

SEC. 28. No judge of election shall deposit in any ballot box any ballot upon which the official stamp as hereinbefore provided for does not appear. Every person violating the provisions of this section shall be guilty of a misdemeanor.

SEC. 29. The county clerk of each county shall cause to be printed in large type on cards in English, instructions for the guidance of electors in preparing their ballots. He shall furnish six such cards to the judges of election in each election precinct, and one additional card for each fifty registered electors or fractional part thereof in the precinct at the same time and in the same manner as the printed ballots. The judges of election shall post not less than one of such cards in each place or compartment provided for the preparation of ballots, and not less than three of such cards elsewhere in and about the polling places upon the day of election. Said cards shall be printed in large, clear type, and shall contain full instructions to the voters as to what should be done, viz: First, to obtain ballots for voting; second, to prepare the ballots for deposit in the ballot boxes; third, to obtain a new ballot in the place of one spoiled by accident or mistake; said card shall also contain a copy of sections thirty-one, thirty-two, thirty-three and thirty-four of this act. There shall also be posted in each of the apartments or booths one of the official tickets without the official stamp hereinbefore provided for and not less than three such tickets posted elsewhere in an about the polling places upon the day of election.

SEC. 30. In the canvass of the votes any ballot which is not endorsed, as provided in this act by the official stamp shall be void and shall not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted: *Provided*, that when a ballot is sufficiently plain to gather therefrom a part of the voter's intention, that it shall be the duty of the judges of election to count such part.

SEC. 31. No person shall falsely make, or make oath to, or fraudulently deface or fraudulently destroy any certificate of nomination, or any part thereof; or file or receive for filing any certificate of nomination knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or forge or falsely make the official endorsement on any ballot. Every person violating any of the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof in any court of competent jurisdiction shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

SEC. 32. No person shall during the election, remove or destroy any of the supplies or other conveniences placed in the booths or compartments for the purpose of enabling the voter to

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prepare his ballot, or prior to or on the day of election, willfully deface or destroy any list of candidates posted in accordance with the provisions of this act. No person shall during an election, tear down or deface the cards printed for the instruction of voters. Every person willfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not exceeding one hundred dollars.

SEC. 33. Every public officer upon whom any duty is imposed by this act who shall willfully do or perform any act or thing herein prohibited, or neglect or omit to perform any duty as imposed upon him by the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office and shall be punished by imprisonment in the county jail for a term of not less than one month nor more than six months, or by a fine of not less than fifty dollars and not more than five hundred dollars or by both such fine and imprisonment.

SEC. 34. No officer of election shall do any electioneering on election day. No person whatsoever shall do any electioneering on election day within any polling place, or any building in which an election is being held, or within twenty-five feet thereof, nor obstruct the doors or entries thereto, or prevent free ingress to and egress from said building. Any election officer, sheriff, constable or other peace officer is hereby authorized and empowered, and it is hereby made his duty to clear the passageways and prevent such obstruction, and to arrest any person so doing. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he has marked his vote, nor shall any person solicit the elector to show the same; nor shall any person except a judge of election receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than one of the judges of election having charge of the ballots, nor shall any person other than such judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he has received from the judges of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Every elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not exceeding one hundred dollars and adjudged to pay the cost of prosecution.

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SEC. 35. It shall be the duty of the secretary of the territory to cause to be published in pamphlet form and distributed through the county clerks of the respective counties a sufficient number of copies of this law, together with the registration law of the territory, and such other laws as bear upon the subject of election, as will place a copy thereof in the hands of all officers of elections.

SEC. 36. Section ten hundred and eighteen of the fifth division of the compiled laws of Montana, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed.

SEC. 37. This act shall take effect and be in force from and after June first, eighteen hundred and eighty-nine.

Approved, March 13, 1889.

## ESTATES—INVESTMENT.

AN ACT to amend section two hundred and seventy-two second division, Compiled Statutes of Montana, entitled "Probate Practice Act."

*Be it enacted by the Legislative Assembly of the territory of Montana:*

SECTION 1. That section two hundred and seventy-two of the second division of the compiled statutes of the territory of Montana, entitled "Probate Practice Act," be and the same is hereby amended so as to read as follows; Section two hundred and seventy-two. Pending the settlement of any estate, on the petition of executor, administrator or any one or more of the heirs-at-law, legatees or devisees, to the probate court, the judge thereof may order any moneys in the hands of any executor or administor to be loaned, for such length of time as may be requested by the party petitioning and the court or judge may think to the interests of the estate, and on such security as the said executor and the court or judge thereof may approve of, which shall not be a period of time to exceed one year at any one time; *Provided*, that no money shall be loaned under the provisions of this act, except on United States, state, territorial, county or approved municipal bonds or real estate mortgage (and then only to the extent of one-half of the market value of the real estate so loaned upon the value of said property to be estimated by the probate judge); *And provided further*, that the term "real estate" as herein used shall not be deemed or held to include mining property. Such order can only be made after publication of such notice of petition in the manner provided by law for the publication of other notices in the probate court.

SEC. 2. This act shall take effect from and after the date of its passage.

Approved, March 12, 1889.



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ESTATES—WHERE PARTNERSHIP EXISTS.

AN ACT to amend section two hundred and twenty-nine of the Probate Practice Act.

*Be it enacted by the legislative assembly of the territory of Montana:*

That section two hundred and twenty-nine of the probate practice act be and the same is hereby amended so as to read as follows: Section two hundred and twenty-nine. When a partnership exists between the decedent at the time of his death and any other person, the surviving partner has the right to continue in possession of the partnership property, and to settle its business, but the interest of the decedent in the partnership must be included in the inventory and be appraised and appropriated as other property; *Provided, however*, that the surviving partner is only to be allowed to control the interest of the deceased partner by giving bond in favor of the executor or administrator in a sum equal to the value of the interest of such deceased partner in and to the property of the partnership, said amount to be determined by the probate judge. The surviving partner must settle affairs of the partnership without delay, treating all creditors alike, and giving no preference to any, except such as are made so by mortgage, pledge or lein, and account with the executor or administrator, and pay over such balances as may from time to time be payable to him in the right of the decedent. Upon application of the executor or administrator, the probate judge may, whenever it appears necessary, order the surviving partner to render an account, and in case of neglect or refusal, may, after notice, compel it by attachment and the executor or administrator may maintain against him any action which the decedent could have maintained.

Approved, March 14, 1889.

FEEBLE-MINDED AND IMBECILE CHILDREN.

AN ACT to provide for the care and maintenance of feeble-minded and imbecile children.

*Be it enacted by the Legislative Assembly of the Territory of Montana:*

SECTION 1. That the provisions of sections 994, 995 and 996 of chapter fifty-seven of the fifth division, General Laws, Compiled Statutes of Montana, relative to deaf, mute and blind children be and the same are hereby amended so as to include feeble-minded or imbecile children, between the ages of eight and eighteen years, and in case of any application for the care of any such imbecile or feeble minded child the governor and superintendent of public instruction of Montana shall proceed to select a suitable asylum for the care of such feeble minded child, according to said sections hereby amended, and the auditor of the territory shall pay by warrant any certificates certified to him for the transportation of any imbecile or feeble-minded child in the manner required by section 996 of said act.

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SEC. 2. This act shall take effect from and after its passage.

Approved, March 13, 1889.

## FEES AND COMPENSATION—COUNTY OFFICERS.

AN ACT to provide fees and compensation for the several county officers in the counties of Montana.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That the clerk of each of the several judicial districts of the territory of Montana shall receive a salary of one thousand dollars per annum, one-fourth thereof payable quarterly out of the contingent fund of the said county, by a warrant drawn on such fund and payable as other warrants thereon are paid, and which salary shall be in full compensation for all services and charges against said counties, as such clerks in said counties, in all criminal causes and in all causes in which any county, or the territory of Montana or any officer thereof as such may be a party, or in any way interested or liable for costs.

SEC. 2. When such clerks may have a deputy in any other counties, such deputies shall be entitled to receive a salary of one thousand dollars per annum, except in counties having an assessed valuation of not over three million dollars, the salary shall be eight hundred dollars per annum, to be paid quarterly by warrants drawn on the contingent fund of said counties and paid as other warrants thereon, and such salary shall be for the use and benefit of such deputies. And it is provided that said salaries shall be in full payment for all services as clerks and deputy clerks in said counties in all civil and criminal causes in which any county or the territory or officer thereof shall be a party, or in any way liable for costs: *Provided*, That nothing herein contained shall prevent the county commissioners of any county from employing, when necessary, an additional deputy clerk for their respective counties, at a salary not to exceed one hundred dollars per month.

SEC. 3. In addition to the salaries of said clerks and deputies mentioned in the foregoing sections they shall be entitled to receive:

For verification to affidavit and seal, fifty cents; for taking depositions, per folio, fifteen cents; for taking acknowledgments to conveyances, fifty cents; for declaration of intention to become a citizen, two dollars; for final naturalization papers, three dollars; for transcript on appeal, for transcript of judgment, execution or order of sale and recording same, or certified copies of other papers, per folio, ten cents; for commencing actions in civil cases, including the issuance of summons, writ of attachment, writs of injunction, or other writs, unless the same be presented in forma pauperis, five dollars, and no more if dismissed or discontinued; for entry of final judgment in favor of plaintiff, two dollars and fifty cents; upon the appearance of the defendants in each civil action, two dollars

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and fifty cents; upon entry of final judgment in favor of defendant, five dollars; and the items of compensation in this section specified, shall be the only charges of compensation that the clerk of a district court or any deputy shall collect or receive in civil action in any district court of this territory.

SEC. 4. That the several county clerks and recorders of the counties of this territory shall receive for all services required of them by law to be performed for any county, or the territory of Montana, or in which any county or the territory of Montana is a party or in any way liable or responsible for costs or fees to said clerks and recorders, each the sum of one thousand dollars per year. And such salary shall be paid one-fourth thereof quarterly, by warrant drawn on the contingent fund of the proper county, and payable as other warrants on such fund are paid, and which salary shall be the only compensation said clerks and recorders shall receive for all services required by law of them to be performed for any county or this territory, or for which any county or this territory is liable or responsible; nor shall any county of this territory pay to said clerks and recorders any other compensation than herein provided.

SEC. 5. In addition to the salary of said clerks and recorders mentioned in the foregoing section, they shall be entitled to demand and receive the following fees: For filing and recording each instrument of writing allowed by law to be recorded, for the first folio, thirty cents, for each additional folio, fifteen cents; for each entry in index, ten cents; for each certificate of record of title, one dollar; for acknowledgments certificate and seal, fifty cents; for copies of record, per folio, fifteen cents; abstracts of title, first conveyance, fifty cents; for each subsequent conveyance twenty-five cents; abstracts from original entries, each fifty cents; for each search of record, twenty-five cents; record of quartz or placer claim, one dollar; for cancelling or releasing any mortgage, attachment or other lien, twenty-five cents; for filing each affidavit of brands of cattle slaughtered, twenty-five cents; for recording town plats, for each two hundred lots or less, ten dollars; for each additional lot, five cents; for filing and indexing chattel mortgage, lien, attachment, or other paper required by law to be filed and indexed, one dollar; for filing and recording each affidavit of lode representation, one dollar; for filing and indexing each annual statement of corporations, one dollar; for filing any paper not herein provided for, twenty-five cents.

SEC. 6. The sheriff of each of the several counties in this territory shall receive a salary of one thousand five hundred dollars per annum, payable one-fourth thereof quarterly, by warrant drawn on the contingent fund of the county, and payable as other warrants on such funds are paid; and in addition to such salary the sheriff of each of the several counties shall be entitled to demand and receive the following fees: For transporting prisoners and insane persons, per mile, including diet and all expenses, twenty cents;

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for summoning jurors, each, forty cents; for serving summons, including copy of complaint and summons on each party, fifty cents; for making copies of summonses and other writs, per folio, twenty cents; for serving subpœnas and copy, each witness, thirty cents; for advertising property for sale, one dollar; for every mile actually and necessarily travelled, fifteen cents; for serving and returning scire-facias, one dollar; for committing prisoner to jail, fifty cents; attending before any judge with prisoner on writ of habeas corpus two dollars; for serving writ of possession, with the aid of posse comitatus, three dollars; without such aid, one dollar and fifty cents. For serving execution or attachment, seventy-five cents; for making certificate of sale, previous to execution of deed, two dollars; for taking replevin forthcoming or other bond, seventy-five cents; for executing capias or warrant in criminal cases, one dollar; for serving declaration in ejectment and proper return for each defendant, one dollar; for executing death warrant, two hundred and fifty dollars; for commissions on money collected without sale, on all sums under five hundred dollars, one and one-half per cent; on all sums between five hundred and one thousand dollars, one per cent; on all sums over one thousand dollars, three-quarters of one per cent; for commissions on money collected by sale by sheriff, on any sum under one thousand dollars, two per cent; on all sums between one thousand dollars and five thousand dollars, one per cent; on the excess over five thousand dollars, one-fourth of one per cent. And the county commissioners of each county shall [illegible] compensation to a jailor, when employed, not exceeding three dollars per day. *Provided* that nothing in this section shall be held to apply to the compensation received by the sheriff for board of prisoners, or the transportation of convicts sentenced to confinement in the penitentiary. *Proided*, when any sheriff, constable or coroner serves more than one process or notice in the same direction not requiring more than one journey from his office, he shall charge for and receive one mileage only, for such service.

SEC. 7. And in addition to the salaries and fees above provided the sheriffs of the several counties shall receive for the transportation of persons convicted of violation of the laws of the territory and sentenced to confinement in the penitentiary, per mile, including diet and all expenses, for each person, twenty cents. The said sheriff shall file with the territorial auditor, a statement under oath showing the number of miles actually and necessarily traveled; the name of the prisoner transported; the county jail from whence the prisoner or prisoners were transported; and the auditor shall examine said statement so made and if he is satisfied that the same is correct, he may draw his warrant on the territorial treasurer in favor of such sheriff.

SEC. 8. That the county attorney in each of the respective counties of this territory shall receive as compensation for his services as county attorney an annual salary of eight hundred dollars,

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except in counties having an assessed valuation of not over two million dollars, the salary shall be six hundred dollars per annum. All of such salary shall be paid out of the contingent fund of the respective counties, one-fourth thereof payable quarterly.

SEC. 9. In addition to the salary provided in section eight of this act, the county attorney shall receive upon the allowance of the board of commissioners of such county the following fees, to-wit: For collections made for the county or territory, on all sums of five hundred dollars or less ten per cent. thereof; on all sums over five hundred dollars, ten per cent. of the first five hundred dollars, and five per cent of the excess over five hundred dollars; for each trial conducted by him in case of misdemeanor, five dollars; for each preliminary examination, five dollars; for each coroner's inquest, when in actual attendance, five dollars; for each criminal trial conducted by him in the district court, fifteen dollars, except capital cases, for which he shall receive fifty dollars; for drawing each indictment, five dollars: *Provided*, no fee shall be allowed for drawing any indictment which shall be quashed, or is from any cause held to be defective, and all fees in this section hereinbefore provided shall be taxed as costs. In addition to the foregoing fees, the county attorney shall receive twenty cents for each mile traveled in going to and returning from the supreme court, and shall receive twenty-five dollars for each cause tried by him in the supreme court. All fees in this section provided for shall be paid by warrants drawn on the contingent fund of the county, and the county attorney shall furnish quarterly to the county commissioners a statement of all charges made and fees received by him, which said statement shall be filed with the county clerk and recorder: *Provided*, in no case shall the total maximum compensation of any county attorney including salary and fees, exceed the sum of three thousand dollars.

SEC. 10. The judge of the probate court of the respective counties of this territory shall receive an annual salary of eight hundred dollars except in counties having an assessed valuation of not over two million dollars, this salary shall be six hundred dollars per annum, payable quarterly by warrant drawn on the contingent fund of the proper county, which said warrant shall be drawn and paid as other warrants, and in addition to such salary the probate judge shall be entitled to demand and receive the following fees in probate matters: For appointing executors, administrators, guardians or trustees, one dollar; for granting letters testamentary or of administration affixing seal thereto and recording the same, one dollar; administering oath to any case where a jurat and seal are necessary, twenty-five cents; taking proof of a will or codicil thereto, one dollar: recording any will, codicil or other paper not herein otherwise provided, per folio, fifteen cents; indorsing certificates of probate on any will, codicil or other paper, ten cents; examining and approving each inventory, sale, bill or account current filed by ex-

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ecutor or administrator, fifty cents; entering settlement of executors or administrators on order book, fifty cents; each copy of the settlement of executors or administrators, with certificate and seal, one dollar; for each decree limiting time for exhibiting claims of creditors, fifty cents; for each order of distribution, fifteen cents per folio, and in no case less than one dollar for any order of distribution; for transcript of records, including certificate and seal, per folio, fifteen cents; making order for publication, twenty-five cents; entering allowance of appeal, twenty-five cents; issuing each citation or summons, with seal, fifty cents; issuing a subpœna, first witness, twenty-five cents, and ten cents for each additional name inserted and not more than two subpœnas in any one case; entering any decree or judgment, fifty cents; filing any paper belonging to estate or otherwise, ten cents; hearing application for guardianship or trusteeship and issuing letters therefor, one dollar; taking and approving bond of guardian, trustee or in any other case where required by law, fifty cents; hearing application to revoke letters testamentary and deciding the same, one dollar; swearing a jury, twenty-five cents; taking acknowledgments of any instrument in writing, where there are no more than two parties, fifty cents; three or more parties, seventy-five cents; issuing venire, twenty-five cents; taking and entering verdict, twenty-five cents; allowing or disallowing demand against an estate, twenty-five cents; granting and entering a continuance, fifteen cents; performing marriage ceremony, five dollars; for issuing and recording each marriage license, two dollars; for issuing a deed or duplicate deed under the townsite laws, four dollars. In all civil and criminal actions brought before the probate court, the judge thereof shall be entitled to demand and receive the same fees and be subject to the same limitations therein as is provided for justices of the peace. In any county where the assessed valuation may exceed four million dollars, the probate judge may appoint a clerk and the county commissioners allow such clerk a salary not to exceed one hundred dollars per month.

SEC. 11. The county superintendents of common schools in the various counties of the territory shall receive as annual compensation the sum of one dollar for each school census scholar in his or her county, the same payable quarterly by warrant drawn on the contingent fund of the proper county, and payable as other warrants on such funds are paid: *Provided*, That the county superintendents of common schools shall not serve as teachers in their respective counties while holding such office: *Provided*, That such compensation shall not in any case exceed the sum of one thousand, two hundred and fifty dollars per annum, and in addition to said compensation each superintendent shall receive the sum of ten dollars for each school district where such superintendent has actually visited the schools in such districts at least once in each year, payable as aforesaid: *And provided further*, That the board of county commissioners of the several counties shall furnish the said county

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superintendents all necessary books, blanks and stationery required in the performance of their official duties, and may in their discretion furnish them with an office at the county seat.

SEC. 12. The county treasurers of the several counties shall receive for all services required of them by law to be performed for any county or the territory of Montana, or in which any county or the territory of Montana is a party, or in any way liable or responsible for costs or fees to said treasurers, each an annual salary of fifteen hundred dollars: *Provided*, That in addition to the salaries above specified, said county treasurers shall receive a percentage of all moneys or warrants collected for licenses issued, as follows: Upon the first ten thousand dollars, or fraction thereof, five per cent.; on all sums in excess of ten thousand dollars, and not more than fifty thousand, four per cent., and on all sums in excess of fifty thousand dollars, one per cent.: *And provided*, That the county commissioners may, in their discretion, allow such treasurer a deputy, not to exceed two months in the year, at a salary of one hundred dollars per month: *Provided*, That it shall be the duty of the county treasurer of the several counties of this territory having an assessed valuation of seven million dollars or over to appoint a deputy treasurer at a compensation not to exceed one hundred dollars per month, and in any county having an assessed valuation of three million dollars and less than seven million, the county commissioners may, in their discretion, permit the county treasurer to appoint a deputy, for not more than six months in each year, at a compensation not to exceed one hundred dollars per month, such salaries to be paid by the county commissioners of such county in warrants drawn on the contingent fund of the proper county, such payment to be paid in addition to the salary and compensation hereinbefore provided for the county treasurer.

SEC. 13. The treasurer's salary shall be paid one-fourth quarterly by warrants drawn on the contingent fund of the proper county, and payable as other warrants on said fund are paid. The percentage due said treasurers upon licenses collected shall be ascertained by the board of county commissioners and paid quarterly in the same manner as provided for the payment of salaries.

SEC. 14. That the assessors of each county in this territory shall receive from their respective counties a salary of one thousand dollars per annum, the same payable quarterly by warrants drawn on the contingent fund of the proper county and payable as other warrants on said fund are paid, and in addition to said salary they shall receive a percentage of the assessed valuation returned by them, subject to all the reductions made by the board of equalization, of one quarter of one mill on each dollar, said per centage to be paid by warrant on the contingent fund of the proper county after assessments shall have been fully completed and confirmed by the board of equalization.

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SEC. 15. That the public administrator of each county in this territory may receive compensation as follows, to-wit: When no compensation is provided by the will, or the executor renounces all claim thereto, he must be allowed commission on all sums of money only actually received by him from the sale of property of the estate, or actually disbursed by him in the settlement of the estate, as follows: For the first one thousand dollars at the rate of six per cent; for all above that sum, at the rate of four per cent; and the same commission must be allowed public administrators and other administrators, which shall be the commission herein provided for. In all cases such further allowance may be made as the probate judge may deem just and reasonable for any extraordinary services.

SEC. 16. All officers provided for in this act shall make out a sworn statement quarterly, which shall contain a full and complete statement of all fees and emoluments of whatever character received by them during each quarter, said statement to be filed with the board of county commissioners. A failure to comply with the provisions of this section shall be deemed a misdemeanor, and on conviction thereof. shall be punished by a fine not exceeding one hundred dollars.

SEC. 17. That the fees and salaries in this act provided shall be all the compensation allowed such officers, for all services which they are required to or by this act can perform as such officers. Any such officers who shall charge any greater fee for official services rendered than specially provided for herein shall be liable to the county, territory or persons paying the same, for ten times the sum so paid to such officer to be recovered by civil action, and shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than one hundred nor more than five hundred dollars.

SEC. 18. The sheriffs of the several counties in this territory shall in all cases where any county or the territory shall be liable for fees, for the services of any process, make a statement showing the distance and route and the point from which and to which he actually traveled.

SEC. 19. This act shall take effect and be in force from and after April first, eighteen hundred and eighty-nine, section eight hundred and eighty-seven, fifth division General Laws, and all acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved, March 14, 1889.

## GAMBLING GAMES—PROHIBITED.

AN ACT to prohibit certain gambling games and fixing penalties for violations thereof.

*Be it enacted by the legislative assembly of the territory of Montana:*

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SECTION 1. That if any person or person shall deal, play at, or make any bet or wager of any kind, for money or anything representing money, or other thing of value, at any of the game or games called, designated or known as "three-card monte," "strap or belt" game, "thimblerig," "monte," "patent safe" game, "blank and red" game, "ten dice" game, "wheel of fortune," "percentage stud horse poker," "percentage draw poker," "twenty-one," "high ball," "blue jay," "chuck luck," "short faro," "roulette," "two-card box faro," "loaded dice" game, "bee hive" game, "case" game, "brace faro" game, "keno," "high for luck" game, "brace" game, "envelope" game, or any brace game or games of any character or description whatsoever, or any of the said games called by different names, or any game or game similar to those enumerated in this section, or called by different names, or any person or persons who play at, or conducts any game of cards, where marked cards are used, or who uses any box or device for any game of chance of any character or description with intent to deceive any person playing at such game or games, or any person who, in collusion with any other person plays at, or induces another to play at, any game or games of chance, with intent to deceive or mislead any other person; or any person who conducts or deals at any game or games of chance where the percentage is greater in favor of the dealer than it appears to be on its face; or who conducts or deals at any cheating or fraudulent game of chance of any kind or description whatsoever; or who plays at or conducts any game of chance of any character where the dealer or person conducting such game has any secret or hidden or unfair means of playing or dealing whereby the party who plays is deceived by such secret or hidden or unfair means, or shall induce or solicit, or attempt to induce or solicit, any person or persons whatever to make any bet or wager, or play at any such game or games, he is guilty of a felony, and on conviction thereof, shall be imprisioned in the territorial penitentiary for a term not less than six months nor more than two years, and by a fine of not less than one hundred, nor more than five hundred dollars; *Provided*, nothing in this act contained shall be construed to in any way prevent or prohibit the licensing and conducting, according to law, of the games called and known as "faro bank" and "round the table poker," or the selling of auction and paris mutual pools on races.

SEC. 2. Whoever keeps a room, building, tent, booth, shed, or tenement of any kind, to be used or occupied for carrying on or playing of any gambling games, as designated in section one of this act, or knowingly permits the same to be used, or occupied for carrying on or playing any such games, or whoever being the owner of any house, room, building, tent, booth, shed or tenement of any kind, rents the same, or any portion thereof, to be used or occupied for carrying on or playing any gambling game or games prohibited by this act is guilty of a misdemeanor, and on convict-

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ion shall be fined not more than five hundred, nor less than one hundred dollars, or imprisoned in the county jail not more than six months, nor less than ten days. or both in the discretion of the court; and any owner of any such building, booth, tent, shed, or tenement who knows that any of the games by this act prohibited are played or kept therein, and does not forthwith make complaint before some officer qualified under the laws of Montana territory to issue a warrant of arrest against the person or persons so playing, or using or keeping the same for such purpose or purposes, shall be deemed to have knowingly permitted the same to be used and occupied for such purpose.

SEC. 3. Whoever suffers or permits any gambling game or games of any kind or description as designated in section one of this act, to be played for gain upon or by means of any gaming device, box, contrivance or machine of any character or denomination whatsoever, in his building or room, or any part thereof, or in any outhouse, booth, tent, or erection of which he has the care or possession, or upon any race track or fair grounds, is guilty of a misdemeanor and upon conviction shall be fined not more than five hundred, nor less than one hundred dollars, or shall be imprisoned in the county jail not more than six months, nor less than ten days or both, in the discretion of the court.

SEC. 4. Whoever keeps or exhibits for gain, or to win or gain money or other property, any keno bank or any gambling device, box, machine, or contrivance of any kind or description under any denomination or name whatsoever, used in or for the purposes of running or playing any gambling games as designated in section one of this act, is guilty of a misdemeanor, and on conviction thereof shall be fined not more than five hundred dollars, nor less than one hundred dollars, and imprisoned in the county jail not more than six months, nor less than ten days.

SEC. 5. Any keeper or manager of a hotel, tavern, saloon or other house or place of public resort, or of any fair grounds or race track, who suffers or permits any gambling games as designated in section one of this act, to be played at or within such place or places, or in any outhouse building, room, or erection appendant thereto, or connected therewith is guilty of a misdemeanor, and on conviction thereof shall be fined not more than five hundred nor less than one hundred dollars, and be imprisoned in the county jail not more than six months nor less than ten days.

SEC. 6. Any treasurer of any city or county in this territory who shall issue any license to any person or persons, or association of persons, for the purpose of running or playing any gambling game or games, or similar games as designated by section one of this act, is guilty of a misdemeanor, and shall, on conviction thereof, be fined not more than five hundred nor less than one hundred dollars, or be imprisoned in the county jail not more than six months

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nor less than ten days, or both, in the discretion of the court, and the holder or holders of any license or licenses, issued for the playing and carrying on of any of the games prohibited by this act, and which may have been issued for any period of time extending beyond February twenty-fifth, eighteen hundred and eighty-nine, shall have a valid claim or claims against such county or city for any sum or sums which may have been paid for procuring said license or licenses for any such period of time extending beyond February twenty-fifth, eighteen hundred and eighty-nine, and all claims under the provisions of this act shall be filed and audited as are other claims against counties and cities; and any county where any such license or licenses may have been issued shall have a valid claim against the territory for the refunding of the percentage which may have been paid by the county treasurer of any such county into the territorial treasury, and upon filing the claim of any such county by the clerk of the board of county commissioners with the territorial auditor, such auditor is hereby directed and empowered to draw his warrant upon the territorial treasurer for such amount out of any funds in the territorial treasury not otherwise appropriated.

SEC. 7. It shall be the duty of all sheriffs, deputy sheriffs, constables, and police officers, and they are hereby required, to seize any table, box, machine, case, dice, cards, or other apparatus or article suitable for the purpose of playing or carrying on any gambling games, as designated in section one of this act, found in the possession or under the control, of the person so arrested, and to deliver the same to the magistrate before whom the person arrested is required to be taken.

SEC. 8. The magistrate to whom anything suitable for playing any gambling game, as designated in section one of this act, is delivered pursuant to the last section, must, upon examination of the defendant, or if such examination is delayed or prevented, without awaiting such examination, determine the character of the thing so delivered to him, and whether it was actually employed, or intended to be employed, by the defendant in violation of the provisions of this act; and if he finds that it is of a character suitable for carrying on or playing any gambling games prohibited by this act, and that it has been used, or was intended to be used by the defendant, in violation of this act, he must cause it to be destroyed, or to be delivered to the county attorney of the county in which the defendant is liable to indictment or trial, as the interests of justice may in his opinion require.

SEC. 9. Upon the conviction of the defendant, the county attorney shall cause to be destroyed everything suitable for playing or carrying on any of the games prohibited by this act, in respect whereof the defendant stands convicted, and which remains in the possession of or under the control of the county attorney.

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SEC. 10. No person otherwise competent as a witness, shall be disqualified or excused from testifying as such, either before any court or jury to any facts concerning offenses mentioned in this act, on the ground that his testimony may criminate himself, and such testimony, if given, shall not be used as evidence against such witness.

SEC. 11. No law of Montana Territory shall in any matter be construed to permit in any way whatsoever the running, carrying on, or playing any of the games prohibited in section one of this act, and section thirteen hundred and fifty of the fifth division of the complied laws of Montana and section ten of an act, entitled an act to amend an act entitled an act concerning licenses, approved September fourteenth, eighteen hundred and eighty-seven so far as they relate to games prohibited in section one of this act, be and the same are hereby repealed; *Provided*, Nothing in this section or this act, anywhere contained shall be construed to prevent the licensing and conducting according to law of the games called and generally known as faro bank, round the table Poker, and the selling of paris mutual and auction pools on races.

SEC. 12. One half of all fines collected under the provisions of this act, shall be paid to the person informing against the defendant, and the other half shall be turned over to the county treasurer of the county for the use of the general fund of such county.

SEC. 13. For each and every conviction of any person violating any of the provisions of this act, the county attorney prosecuting shall receive in addition to the fees now allowed him by law a fee of fifteen dollars, to be allowed him by the county commissioners of the county where such conviction may be had.

SEC. 14. This act shall take effect and be in force on and after February twenty-fifth; eighteen hundred and eighty-nine.

Approved, February 20, 1889.

## GAMBLING HOUSES—SIGNS.

AN ACT to repeal Section 206, Chapter 11, Compiled Statutes of the Territory of Montana.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section two hundred and six of fourth division of Compiled Statutes of the Territory of Montana, be and the same is hereby repealed. This act shall take effect from and after its passage and approval by the governor.

Approved, March 6, 1889.

## GAME AND FISH.

AN ACT providing for the better protection of game and fish, and for the creation of the office of game and fish warden.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. There is hereby created the office of game and fish warden, for each of the counties of the territory of Montana, who may be appointed to hold office subject to the provisions of this act.

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SEC. 2. The duties of said officer shall be to examine into and inquire as to any infractions and violations of the game and fish laws of the territory of Montana in the county for which he is appointed, and to institute prosecutions for such infractions or violations in the courts of said county; that he shall be vested with all of the powers of the sheriff of the county in making arrests and in the prosecution of all offenses against the game and fish laws of the territory.

SEC. 3. Upon petition being made to the board of county commissioners of any county, signed by not less than one hundred resident taxpayers of said county, and requesting the appointment of such game and fish warden for said county, such board of commissioners, if in their judgment the best interests of the county demands it, may appoint some suitable person to act as such officer; that such game and fish warden shall hold his office for not more than twelve nor less than three months. The length of his term of office shall be fixed in his appointment by the said board of commissioners.

SEC. 4. That such game and fish warden may be removed or temporialy suspended by the board of county commissioners who appointed him, upon proof of his incompetency or neglect of duty, or whenever in the judgment of the said board his services are not necessary.

SEC. 5. That compensation of such officer shall be at the rate of not to exceed one hundred dollars per month during the time which he shall serve, which account shall be audited and allowed by the board of county commissioners, as other accounts, and shall be paid by warrants drawn on the general fund of the county; that he shall also receive the sums allowed by law to informers in all prosecutions which he shall institute under the game and fish laws, and in which the fine imposed and the costs of the prosecution are collected.

SEC. 6. Whenever any offenses is committed against the game and fish laws of the territory of Montana, upon any river, lake, stream or body of water, which is the boundary between different counties of the territory or which lies partly in one county and partly in another, the jurisdiction for the prosecution of such offence shall be in either county bordering upon such lake, river, stream or body of water.

SEC. 7. That any person appointed fish and game warden under the provisions of this act shall, before entering upon the discharge of the duties of his said office, give a bond to the territory of Montana, which said bond shall be approved by the county commissioners and filed in the office of the county clerk in the county where such fish warden is appointed, and in a sum to be fixed by the county commissioners, and not to exceed one thousand dollars, for the faithful performance of the duties of his office. This act shall take effect on and after March 1st, 1889.

Approved, February 20, 1889.

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## GAME AND FISH.

AN ACT for the better protection of game and fish.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That any person who shall wilfully shoot or otherwise kill, for the period of ten years from and after the passage of this act, any bison, buffalo or quail, or who shall wilfully shoot or otherwise kill for the period of six years, from and after the passage of this act, any moose, elk or beaver within this territory, shall be deemed guilty of a misdemeanor, and be fined not less than two hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not less than two months nor more than six months, or both such fine and imprisonment for each offense committed, in the descretion of the court, and the possession of the skin or meat of any of the above mentioned animals killed during said period shall be presumptive evidence that the person, having either in his possession killed the same in violation of this section. The provisions of this section shall not be deemed or held to apply to persons who raise or own buffalo.

SEC. 2. That any person or persons who shall wilfully shoot or otherwise kill or cause to be killed, any white-tailed deer, black-tailed deer, mule deer, mountain sheep, Rocky mountain goat, or antelope, between the first day of January and the fifteenth day of September of the same year, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty dollars nor more than fifty dollars for each offense committed.

SEC. 3. That a fishing tackle consisting of a rod or pole, line and hood, or spear, shall be the only lawful way that fish can be taken in any of the rivers, streams, lakes or ponds of this territory; that said hook shall not be bated with any poisonous drug or substance, and that it shall be unlawful for any person or persons to make any dams or use any fish traps, grab hooks or similar means for catching fish, or to use any drugs or poison or giant powder, or other explosive compound, intending to catch, kill or destroy fish of any species, but nothing hereincontained shall prevent the use of any seine or other catch net used to catch fish in any river or stream below two hundred miles from the head of any such river or stream; provided, that such seine or catch net shall have a mesh not less than one inch square, and any person or persons, company or corporation offending against this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding two hundred and fifty dollars, or shall be imprisoned for a period not more than six months and shall pay the costs of prosecution.

SEC. 4. All laws and parts of laws in conflict with this act be and the same are hereby repealed.

SEC. 5. This act shall take effect on and after its passage.

Approved February 28, 1889.

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## INSPECTOR OF MINES.

AN ACT to create the office of inspector of mines and to define his duties.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That the office of Inspector of Mines of Montana be, and the same is hereby created.

SEC. 2. The governor, by and with the consent and advice of the legislative council, shall appoint an inspector of mines, who shall be a person of temperate habits, a citizen of the United States, a resident of Montana, and a property owner therein, not under thirty (30) years of age, who shall be theoretically and practically acquainted with mines and mining in all its branches, and whose term of office shall be for (2) two years, unless sooner removed by the governor for cause, and whose office shall be at the capital of Montana: *Provided*, That when a vacancy occurs in the foregoing office from any cause, and the legislative council shall not be in session, the governor shall have power to appoint said inspector of mines, who shall perform the duties and receive the compensation of such office as hereinafter provided, until the next session of the legislative assembly, when the governor shall submit such appointment to the council for their approval or rejection. No person shall hold the office of inspector of mines of Montana who may be an employee of any mining company or corporation during his term of office, or who may be during such term of service an officer of any mining company or corporation, or a director thereof. The inspector of mines and the deputy inspector of mines of Montana, shall each before entering upon his respective duties, take and subscribe an oath in the following form:

——— MONTANA, }
COUNTY OF ——— }

I, ....., of the county of....., do solemnly swear that I will perform each and every duty required of me as inspector or deputy inspector of mines of Montana; that I will at all times, while acting in such official capacity, fulfill the duties of such office according to the law and to the best of my skill and understanding; that I will never at any time while I hold the office of inspector or deputy inspector of mines disclose to any one, directly or indirectly, under any circumstances whatsoever, any information relative to the value of any mining property that may have come to me in any visit to, or examination of, or knowledge of any such mining property within Montana, while I am acting as such official; that I will never in any way take advantage of, or suffer any one else to take advantage of, my knowledge relative to the value of any ore or mineral in any mine, that I may acquire in any examination of any mine or shaft, or tunnel connected with any mine, or of any ore or mineral that I may see within any mine; that I will never deal in any mining properties, directly

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or indirectly, by bargain or sale, wherein I may have occasion to make any examination, or while am acting as such inspector or deputy inspector of mines, nor will I impart or express to any person any opinion I may form of the value of any mine, or any ore within any mine, or any part of any mine; that I shall consider this obligation as binding upon me while I am not acting as inspector or deputy inspector as I shall while I am acting in such official capacity. To all of which I pledge my sacred honor, so help me God.

SEC. 3. The inspector of mines shall have a seal bearing the words "Inspector of Mines of Montana," which shall be kept by him exclusively for the use of his office, and said seal shall be affixed to official documents only.

SEC. 4. The inspector of mines shall devote his entire time to the duties of his office, and shall receive a salary of two thousand five hundred dollars per annum. The Governor of Montana with the advice and consent of the legislative council shall appoint a deputy inspector of mines. Such deputy inspector shall serve for two years, but shall always be subject to removal by the governor. The deputy inspector shall act at any time when an emergency arises, such as in case of accidents in mines, or of the absence or disability of inspector, and shall receive as compensation for his services while actually engaged in the performance of duty, the sum of six dollars per diem; provided, the total compensation of such deputy shall in no case exceed six hundred dollars per annum. The qualifications of the deputy inspector shall be the same as those of the inspector. The salary of the inspector shall be paid quarterly out of the territorial treasury. Any per diem due to the deputy shall be paid upon vouchers approved by the inspector and by the territorial auditor.

SEC. 5. All necessary expenditures of money incurred by the inspector of mines and his deputy, not exceeding two thousand dollars per annum for traveling, rent, fuel, postage, stationary and printing shall be paid out of any fund in the territorial treasurer not otherwise appropriated, and the territorial auditor is hereby authorized to issue his warrants on the treasurer for the same; provided, that proper vouchers shall be presented to the auditor, certified to under oath by said inspector, for all such expenditures.

SEC. 6. It shall be the duty of the inspector of mines to visit, enter and examine in person or by duly appointed deputy any mine or piece of mining ground for the purpore of ascertaining the condition of the same in regard to its safety, ventilation and means of egress, and for this purpose shall have access at any and all times to any mine stopes, levels, winzes, tunnels, drifts, cross cuts, shafts, works and machinery for the purpose of such inspection: *Provided however*, The working of such mine shall not be impeded or obstructed during such examination; *Provided further*, That this inspection shall not be at the expense of the owner, lessor, lessee, or



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agent of the mine being examined, but said owners, lessor, lessee or agent shall render such assistance as may be necessary to enable the inspector to make the required examination.

SEC. 7. Whenever the inspector of mines shall receive a formal complaint in writing, signed by three or more persons, setting forth that the mine in which they are employed is dangerous in any respect, he shall, in person or by deputy, visit and examine such mine: *Provided*, every such formal complaint shall in all cases specificially set forth the nature of the danger existing at the mine, and shall describe with as much certainty as is possible, how such danger, apparently or really, renders such mine dangerous, and shall set forth the time the cause of such danger was first observed, and shall distinctly set forth whether or not any notice of such defect or danger has been given by the complainants or any one else to their knowledge, to the superintendent of such mine, and if no such complaint has been made to such superintendent, the reason why it has not been made: *And provided further*, That all complaints shall be duly verified by the three or more complainants who shall sign the same before some officer authorized by law to administer oaths. After such complaint shall have been received by the inspector of mines, it shall be the duty of such inspector to serve a certified copy thereof, but without the names of the complainants, upon the superintendent, or manager, or owner of such mine, at any time before he visits the same, and as soon as possible to visit such mine; and if from such examination he shall ascertain that the said mine is from any cause in a dangerous condition, he shall at once notify the owner, lessor, lessee, or agent thereof, such notice to be in writing, and to be served by copy on such owner, lessor, lessee, or agent, in the same manner as provided by law for the serving of legal notices or process, and said notice shall state fully and in detail, in what particular manner such mine is dangerous or insecure, and shall require all necessary changes to be made without delay, for the purpose of making said mine safe for the laborers employed therein; and in case of any criminal or civil procedure at law against the party or parties so notified, on account of loss of life or bodily injury sustained by any employe subsequent to such notice, and in consequence of a neglect to obey the inspector's requirement, a certified copy of the notice served by the inspector shall be prima facie evidence of the culpable negligence of the party or parties so complained of. Nothing in this act shall be so construed as to give the control of any mine to the mine inspector or deputy, or to allow them to interfere with the working of any mine.

SEC. 8. It shall be the duty of the inspector of mines at least once in each year, either in person or by a duly authorized deputy, to visit each mining county in Montana, and examine as many of the mines in the different counties as practicable, and shall make such recommendation as in his judgment are necessary to insure the

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safety of the workmen employed therein; and whenever, from his examination, he shall find any mine to be in an unsafe condition he shall at once serve a notice upon the owner, lessor, lessee, or agent thereof, as provided for in section seven of this act.

SEC. 9. Whenever a serious or fatal accident shall occur in any mine in Montana it shall be the duty of the owner, lessor, lessee, agent or superintendent thereof to immediately and by the quickest means notify the inspector of mines or his deputy as may be most convenient, and upon receiving such notice the inspector in person or deputy shall at once repair to the place of accident, and investigate fully the cause of such accident and whenever possible to do so the inspector or his deputy shall be present at the coroner's inquest held over the remains of the person or persons killed by such accident, and shall testify as to the cause thereof, and shall state whether in his opinion the accident was due to the negligence or mismanagement of the lessor, lessee, owner or agent of such mine, or the manager or superintendent or other persons in charge. If the inspector or deputy inspector cannot be immediately present in case of a fatal or serious accident occuring, it shall be the duty of the superintendent, owners, or person in charge of the mine to have written statements made by those witnessing same and duly sworn to. In case of no person being present at the time of the accident, then the statement of those first present shall be taken, which statements shall be sworn to before some person qualified to administer oaths, and such sworn statements shall be placed in the hands of the inspector or deputy inspector upon the demand of either of those officers.

SEC. 10. Any owner, lessor, lessee or agent of any mine who shall fail to comply with the provisions of section nine of this act, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding one thousand dollars ($1,000.)

SEC. 11. All corporations or individuals working mines in Montana who shall employ or permit to be employed in such mines any children under fourteen years of age shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine not exceeding one thousand dollars.

SEC. 12. The inspector of mines before entering upon the duties of his office shall give a good and sufficient bond in the penal sum of five thousand (5,000) dollars, conditioned on the faithful performance of his duties, and with two or more surities. Said bond to be approved by the governor of Montana and the deputy inspector of mines shall give a like bond in the sum of twenty-five hundred (2,500) dollars, to be approved by the governor, said bonds to be filed with the auditor of Montana.

SEC. 13. The inspector of mines shall make a report to the governor of Montana, on the first day of December of each year, and said report shall enumerate all accidents that have occurred in the

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mines of Montana which have occasioned serious injury or resulted fatally to persons employed therein together with the nature and cause of such accident. Said report shall also contain statistical and other information which may tend to promote the development of the mineral resources of Montana and shall generally set forth the result of the inspectors' labors for the year; such reports shall be printed as are the reports of other territorial officiers.

SEC. 14. All maps and plans of mines and papers belonging to the inspector's office and relating to the business thereof, and all the records of said office shall be by him properly kept and arranged, and upon the expiration of his term of office turn over to his successor.

SEC. 15. The provisions of this act shall not apply to mines in which less than five (5) men are employed or to mines in which no other person but the owner or owners or lesses thereof are permitted to work.

SEC. 16. This act shall take effect on and after June first, 1889.

Approved, March 14, 1889.

## JURY.

AN ACT to amend section two hundred and fifty-five first division Compiled Statutes of Montana relating to the formation of the jury.

*Be it enacted by the legislative assembly of the territory of Montana:*

That section two hundred and fifty-five first division, code of civil procedure, be amended so as to read as follows: Section two hundred and fifty-five, at the commencement of any term of the district court, or as soon thereafter as the trial jurors summoned shall be in attendance, the judge shall examine the jurors who appear, and if more than twenty-four trial jurors who are qualified and not subject to any exemption, or any of the disqualifications provided by law, shall appear and remain after all excuses are allowed, the court shall discharge by lot the number in excess of twenty-four. If for any reason the panel of trial jurors shall not be full at the opening or court, or at any time during the term, the clerk shall under the direction of the court, draw from the box furnished by the county commissioners as provided by law, so many additional names as the court shall direct to fill such panel, who shall be summoned in the same manner as the others, and if neccessary jurors may be so drawn and summoned, from time to time, until the panel shall be filled; *Provided*, That if any person whose name is drawn from the box at any time after the commencement of the court resides at a place remote from where such court is held, the slip of paper containing such name, shall be again placed in the box by said clerk, and another name drawn therefrom instead. When from challenges or other cause the regular panel shall be exhausted, and a jury cannot be obtained in particular

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cause, the clerk of the court under direction of the judge thereof, shall draw additional names from the box furnished by the county commissioners, and the persons so drawn shall be summoned as jurors in the pending cause; *Provided*, If any of the persons so drawn reside at a distance from where the court is held, so that such person cannot readily be summoned, the court in its discretion may direct the name so drawn to be returned to the jury box and another name to be drawn instead; if the person so drawn and summoned shall be insufficient to complete the jury, the names of other persons shall be drawn and summoned in like manner until a jury is obtained. If from any cause the names contained in said box (including the name set aside as herein provided) shall be exhausted without obtaining a competent jury, the court may order a venire to be issued directing the sheriff to summon from the citizens of the body of the county, and not from bystanders, so many qualified persons as may be necessary to complete the jury in the pending trial, but upon objection by either party to the cause to the sheriff serving such venire, the court shall appoint a bailiff to serve the same, when a sufficient number of persons having the qualifications of jurors, as provided by law, to fill the panel, in order that a jury may be drawn therefrom, and when such jury is drawn the persons selected from the citizens to fill the panel and not chosen on the jury shall be discharged from the panel, and those chosen to serve on the jury shall also be discharged from the panel at the conclusion of the trial; *Provided*, That persons so selected shall not thereby be disqualified or exempt from service as jurors when regularly drawn by the clerk for that purpose in the manner provided by law. Any person who shall seek the position of juror, or who shall ask any attorney or other officer of the court, or other person, to secure his selection as a juryman, shall be deemed guilty of a contempt of court. Any attorney or party to a suit pending for trial at that term who shall request or solicit the placing of any person upon a jury, shall be deemed guilty of a contempt of court. The jury shall consist of twelve persons. The parties to any civil suit, or in cases of misdemeanor, may consent to any number not less than three; such consent shall be entered by the clerk in the minutes of the trial.

SEC. 2. All acts and parts of acts in conflict with this act be and the same are hereby repealed.

SEC. 3. This act shall take effect from and after its passage and approval by the governor.

Approved, March 2, 1889.

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## JURIES.

AN ACT relating to she drawing of juries, and to repeal sections twelve hundred and ninety-seven, twelve hundred and ninety-eight, twelve hundred and ninety-nine, thirteen hundred, thirteen hundred and one, thirteen hundred and two and thirteen hundred and three of chapter seventy-eight, fifth division general laws, Compiled Statutes of Montana.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. It shall be the duty of the judge of the district court, at each regular term that shall be holden in any county, to appoint three persons of honor and respectability, not parties litigant to any matter pending in such court, and who shall have resided in such county at least two years next preceding, and shall also possess the qualifications required by law for jurors, to constitute jointly along with the judge of probate of said county and the county clerk, a commission to select a grand and petit jury, whose duty it shall be to serve at the next regular term of said court in each county.

SEC. 2. It shall be the duty of the persons so appointed, upon being notified of their appointment by the clerk of such court or his deputy, to attend without delay at the place where said court shall be holden, and shall each take an oath, in open court, that they are not in any way interested in any matter pending in said court, and that they will faithfully and impartially discharge their duties in said commission, in the selection of grand and petit jurors.

SEC. 3. After the oath aforesaid shall be duly taken it shall be the duty of the said persons to retire with the probate judge and the county clerk to some convenient room, and select twenty qualified persons to compose a grand jury for the next succeeding term of the court, having before them the county assessors books of the county.

SEC. 4. The names of the persons so selected for grand jurors shall then be made up into a written list and enclosed in an envelope and sealed up and be delivered, by one of the commissioners, to the judge of the district court, who shall write across the place for sealing, the words "grand jurors, for the next regular term of the district court for —— county."

SEC. 5. The jury commissioners for such county shall then proceed to draw a petit jury for the next ensuing term of court in manner following: In any county where the population exceeds ten thousand such commissioners shall select the names of three hundred persons lawfully qualified to serve as jurors from the county assessor's books of the county, and in any county where the population is ten thousand or less, they shall select the names of one hundred and fifty persons lawfully qualified to serve as jurors, from such assessor's books, and the names of the persons so selected, after being written on separate slips of paper, shall be deposited in a box to be provided for such purpose and well shaken up, and from the names so deposited the jury commissioners shall

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alternately draw the names of thirty persons, who shall be summoned as trial jurors for the next ensuing term of such district court. For the purpose of estimating the population under this section, the commissioners may multiply by four the whole number of votes cast in such county for member of congress, at the general election next last held before they draw the jury, and the product of such multiplication shall be deemed the population of the county.

SEC. 6. The names of the persons so selected for petit jurors shall then be put into a written list and enclosed in an envelope and be sealed up, and be delivered by one of the commissioners to the judge of the district court, who shall write across the place for sealing the words, "petit jurors for the next regular term of the district court for ————county." The box containing the residue of the names of the petit jury list as aforesaid shall, after such drawing, be locked up, and the key and box deposited with the clerk of the court or deputy clerk, for which the jury is summoned, and by him safely kept for future use, as required by law.

SEC. 7. The packages so sealed shall then be delivered by the jugde to the clerk of said court, or his deputy, to be by him safely kept until not more than forty nor less than thirty days before the first day of the next term of the said district court, when, in the presence of the sheriff of the county, or one of his deputies, where the clerk or deputy shall keep his office, and also the district judge if he be present, such clerk or his deputy shall open each of said packages, and forthwith issue venires to the sheriff of the county in which said jurors shall have been selected returnable to the next term of said court; and all the names contained in the list of grand jurors shall be included in one venire, and those of the petit jurors in another. The venires as provided for in this section shall be returned to the clerk of such court, or his deputy, by the sheriff aforesaid, at least two days before the commencement of each term of court, and such venires, after their return, shall be subject to the inspection of any officer or attorney of the court.

SEC. 8. After the clerk shall open the packages as herein directed, and shall have issueed the venires for the jurors, he shall safely keep the envelopes enclosing the lists, and shall have present at the next term of court the lists and envelopes.

SEC. 9 Each of the said commissioner shall keep secret, until said packages shall be opened, the names of the persons which shall be placed on the list as jurors.

SEC. 10. Every person who shall be appointed a commissioner by the judge in pursuance of this act and who shall refuse or neglect to perform the duties herein prescribed, shall be liable to attachment as for contempt, and fined in any sum not exceeding $10, in the discretion of the judge; and in case of any failure to attend and take the oath and join the commission herein provided for the district judge may appoint other persons in the place of such as shall be absent.

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SEC. 11. If the probate judge shall be within the county and shall fail to attend said commission, he shall be liable to attachment by the court and may be fined not exceeding $50 in the discretion of the judge, or, of the court; *Provided*, He may be excused upon good and satisfactory reasons being shown.

SEC. 12. The absence of one or two commissioners appointed under the provisions of this act shall not prevent a majority of such commissioners from selecting the juries and doing and performing all other acts directed and required to be done under the provisions of this law.

SEC. 13. Each of said commissioners shall receive the sum of $1, and actual mileage traveled in attending as a jury commissioner.

SEC. 14. When from any cause on the meeting of or during the term of a court, a grand jury is wanted, or there is not a sufficient number of grand jurors present, or those summoned have been excused or discharged, it shall be lawful for the judge of the district court and for the clerk of the court or his deputy under the direction of the judge, to prepare a list of the names of a sufficient number of persons competent to serve as grand jurors, who shall be summoned by the sheriff to attend at such time as the court may direct.

SEC. 15. If during a term of the district court a lawful petit jury is not present and one is wanted, it shall be lawful for the judge of the court and the clerk of such court, or his deputy, under the direction of the judge, to prepare a list of the names of at least twenty-four competent persons to serve as trial jurors for such term. After such list is so prepared it shall be the duty of the clerk of the court, or his deputy, to issue a venire containing the names of the persons selected as aforesaid, and to place the same in the hands of the sheriff, who shall thereupon summons such persons to appear before such court upon a day named in said venire and fixed by the judge of such court. The persons so drawn and summoned and not excused by the court, shall constitute the panel of petit jurors for such term. If during the progress of any trial of any cause in such court, where a jury has been drawn, as in this section provided, it shall become necessary for any cause to summon additional jurors, such additional jurors shall be drawn and summoned by an open venire, in accordance with the provisions of section two hundred and fifty-five of the first division of the compiled laws of Montana and the acts amendatory thereto.

SEC. 16. Sections twelve hundred and ninety-seven, twelve hundred and ninety-eight, twelve hundred and ninety-nine, thirteen hundred, thirteen hundred and one, thirteen hundred and two, and thirteen hundred and three, of chapter seventy-eight, fifth division general laws, of the compiled statutes of Montana be, and the same are hereby repealed, and any and all other acts in conflict with the provisions of this act and relating to the subject matter of this act

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are hereby modified to conform to the provisions of this law; *provided*, nothing in this act anywhere contained shall be construed to impair the legality of any grand or petit jury heretofore drawn, or which may be drawn, for or during any term of district court to be held in any county in Montana prior to July first, eighteen hundred and eighty-nine, pursuant to laws in force and existing prior to and at the time of the passage of this act. The several judges of the district courts in each county where a term of court may be held prior to July first, eighteen hundred and eighty-nine, are hereby empowered to appoint the commissioners required to be appointed under the provisions of this law, and to do and perform all acts necessary to carry out the provisions of this law, so that all grand and petit jurors which may serve at the term of the district court to be held in Montana after July first, eighteen hundred and eighty-nine, may be selected under the terms of this act.

SEC. 17. This act shall take effect from and after March 10, 1889.

Approved, March 14, 1889.

JURORS.

AN ACT to amend section ten hundred and seventy-nine, fifth division, compiled statutes of Montana, relating to the compensation of jurors.

*Be it enacted by the legislative assembly of the territory of Montana:*

That section ten hundred and seventy-nine, fifth division, compiled statutes of Montana, be, and the same is hereby amended so as to read as follows:

Section ten hundred and seventy-nine: Every juror and witness attending in his own county on any court of record, or before a commission or referee, shall receive for such services and attendance per day three dollars; *provided*, that no per diem shall be allowed to special jurors summoned who shall not be sworn in the trial of a cause and are not required to remain in attendance on the court. Every juror and witness attending before any probate or justices court in obedience to process issued from such court shall receive for such attendance and service, one dollar and fifty cents per day; *provided*, that no mileage shall be allowed for any distance less than one mile.

Approved, March 14, 1889.

JUSTICES OF THE PEACE.

AN ACT to provide for the compensation of justices of the peace:

*Be it enacted by the legislative assembly of the territory of Montana:*

SEC. 1. Justices of the peace shall receive the following fees for the following services. A fee of one dollar at the commencement of any suit, civil or criminal: issuing summons, one person, twenty-five cents, each additional person. ten cents; subpœna for

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one person, twenty-five cents, each additional person, ten cents; affidavit on attachment, twenty-five cents, undertaking, fifty cents, and writ of attachment, twenty-five cents; order of arrest, twenty-fine cents; attachment for one person, fifty cents, each additional person, twenty-five cents; mittimus, fifty cents; wait of replevin, twenty-five cents; affidavit, twenty-five cents, and bond for the same, fifty cents; execution, fifty cents; writ of restitution or re-restitution, fifty cents; venire, fifty cents; warrant of arrest, one person in criminal cases, fifty cents, each additional person, twenty-five cents; order on jailor for one person or persons, twenty-five cents; writ of forcible entry and detainer, or forcible detainer, fifty cent; for any other order required by law, fifty cents; entering adjournment on docket, twenty-five cents; entering judgment twenty-five cents; discontinuance or satisfaction of judgment, twenty-five cents; transfer of judgment on docket, twenty-five cents; appointing guardian *ad litem*, twenty-five cents; taking and entering verdict, twenty-five cents; each motion decided by justice, twenty-five cents; making up docket, drawing certificates and affidavits per folio, fifteen cents; each oath administered in case, ten cents; certifying depositions, transcript of docket entries, copies of pleadings or writings on file, not otherwise provided, per folio, fifteen cents; filing each paper required by law, ten cents; taking and approving each bond or undertaking, fifty cents; appointing special constable, twenty-five cents; acknowledging deeds or other instruments, each person, fifty cents; taking depositions, per folio, fifteen cents; entering an appeal, twenty-five cents; transmitting papers on appeal to appellate court, fifty cents; performing duties of coroner, same as coroner; marrying and making returns as required by law, five dollars.

SEC. 2. The fees prescribed in section one of this act for justices of the peace shall be the only fees and compensation which may be demanded by or allowed to justices of the peace, and any justice of the peace who shall demand and receive any other or greater compensation whatever than the fees allowed by this act, for the discharge of any official duty, shall be and become answerable to any person injured thereby to the extent of three times the amount so illegally taken and received by said justice to be recovered in an action brought in any court of competent jurisdiction within this territory.

SEC. 3. Every justice of the peace is hereby required to post, in a conspicuous place in his office a written on printed copy of section one of this act, showing what fees he is entitled to, by law; and any justice failing to post such list of fees, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in any sum not more than fifty nor less than twenty-five dollars.

SEC. 4. Sections nine hundred and forty-two and nine hundred and fifty-seven of the compiled statutes of Montana territory, fifth

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division general laws, and any and all other acts and parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

This act shall take effect from and after its passage.

Approved, February 28, 1889.

## LAW LIBRARY.

AN ACT concerning the Montana Law Library.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION. 1. That in addition to the annual appropriations now provided by law for the Montana law library, there is hereby appropriated the sum of three thousand two hundred and fifty dollars, for the pupose of purchasing such reports and text books and statutes, and other law books, and having the law library insured as may be deemed necessary and proper for said library by the board of directors. The money hereby appropriated shall be expended under the direction of the board of directors and for the purpose aforesaid only, and said board shall render to the next legislative assembly an itemized account of all reports, text books, statutes, and other law books purchased under the provisions of this act, and the prices paid therefor. Upon presentation of vouchers approved by the chairman of the board of directors for sums expended under this act, the territorial auditor is hereby authorized and directed to draw his warrant for payment thereof upon the territorial treasurer, who shall pay the same out of any monies in the treasury not otherwise appropriated. Section one thousand five hundred and seventeen of the fifth division of the General Laws of Montana, is amended so as to read as follows:

Section one thousand five hundred and seventeen. It shall be the duty of the governor by and with the advice and consent of the legislative council immediately after the passage of this act and biennially thereafter to appoint some suitable person to be librarian of the Montana library, who shall receive a monthly salary not to exceed ninety dollars per month, and shall perform such duties as shall be required by the board of directors; and there is hereby appriated annually for the salary of the librarian the sum of one thousand and eighty dollars, and section one thousand five hundred and thirty-one of the fifth division of the Compiled Statutes of Montana, is hereby modified so as to conform to the provisions of this act.

This act shall take effect from and after its passage.

Approved, March 9, 1889.

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LEINS.

AN ACT entitled an act to amend chapter eighty-two, compiled laws of Montana, relating to leins, and to add thereto a sub division of section 1394.

*Be it enacted by the legislative assembly of the territory of Montana:*

That there be added to section 1394 of the fifth division of the compiled laws of Montana the following:

SEC. 1394. *a.* Whenever in any action or suit hereafter brought for the purpose of foreclosing a lein or leins under the provisions of this act and judgment is therein rendered for the plaintiff or any person claiming or holding a lein upon any property, the court may order and it is hereby made the duty of the judge thereof to order that the defendant against whose property the lein is filed shall pay as costs a reasonable attorney fee, to be fixed and allowed by the court and to be collected as are other costs in the action.

Approved, March 14, 1889.

LICENSES—AMUSEMENTS.

AN ACT to amend certain sections of an act entitled: "An act to amend an act concerning licenses," approved September 14, 1887.

*Be it enacted by the legislative assembly of the Territory of Montana:*

SEC. 1. That subdivision second of section 1 of an act to amend an act entitled: "An act concerning licenses," approved September 14th, 1887, be amended so as to read as follows: From the manager or lessee of every theatre (not a variety or concert theatre), one dollar per day or fifteen dollars per month; from each variety or concert theatre, fifty dollars per month; for each single exhibition of opera or concert singer (not exhibited in any theatre where a monthly license is paid), two dollars; for minstrels, legerdemain or other shows not herein provided for, four dollars for each single performanc (when not in a theatre where a monthly license is taken out); for every circus, including side shows, one hundred dollars per day; *provided*, there shall be no licenses collected from any amateur exhibition or concert for school or charitable or religious purposes.

Approved, March 14, 1889.

LIMITATION OF ACTIONS.

AN ACT to amend sections 41 and 44, chapter three of the first division of the compiled statutes of Montana relating to the limitation of actions.

*Be it enacted by the legislative assembly of the territory of Montana:*

SEC. 1. That section 41 and section 44, chapter three of the compiled statutes of Montana be, and the same are hereby amended so as to read as follows. to-wit:

SEC. 41. Actions other than those for the recovery of real

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property as follows: First—An action upon a judgment or decree from any court of the United States or of any state or territory within the United States shall be commenced within ten (10) years. Second—An action upon any contract, obligation or liability founded upon any instrument in writing shall be commenced within eight (8) years.

SEC. 44. An action upon a contract, account or promise, whether expressed or implied, which is not founded upon a written instrument signed by the party chargeable therewith, shall be commenced within five (5) years from the cause of the action accrued. If the action be upon an open and running account the computation of time shall be from the date of the last item thereof.

SEC. 2. Nothing in this act anywhere contained shall be construed to effect in any way causes of action which may have accrued prior to the passage of this law.

SEC. 3. This act shall take effect from and after its passage and approval.

Approved, March 9, 1889.

## LOTTERIES.

AN ACT to prohibit lotteries and providing a penalty for the violation thereof:

*Be it enacted by the legislative assembly of the territory of Montana:*

SEC. 1. That any person or persons who shall set up or promote any lottery for money, or shall dispose of any property of value, real or personal, by means of a lottery, or who shall aid, abet or encourage either by printing or writing or any other manner, or shall in any way be concerned in preparing, managing or drawing any such lottery; or shall in any house, shop or building owned or occupied by such person or persons, or under his or their control, knowingly permit the preparing, managing or drawing of any such lottery, or the sale of any lottery ticket, share of a ticket, or any other writing, certificate, bill, token or any other device purporting or intended to entitle the holder, bearer or any other person, to any prize, or interest or share of any prize to be drawn in a lottery, shall be punished by imprisonment in the county jail not more than one year, or by a fine not exceeding five hundred dollars.

SEC. 2. Any person or persons who shall sell either for himself or themselves, or for any other person or persons, or shall offer for sale, or shall have in his or their possession with intent to sell or offer for sale, or exchange, or negotiate, or shall in any wise aid or assist in selling, negotiating or disposing of a ticket in any such lottery, or a share of a ticket, or any such writing, certificate, bill token or other device, as is mentioned in the preceding section, except as hereinafter provided, shall be punished by a fine not exceeding five hundred dollars.

SEC. 3. Any person or persons who shall advertise any lottery ticket, or share in such ticket, either by himself or any other per-

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son or perons, or who shall set up or exhibit any sign or symbol, or any emblem or other representation of a lottery or of the drawing thereof, or any such writing, certificate, bill, token or other device before mentioned, or where the same may be purchased or obtained, or shall in any way invite or entice, persuade or induce or attempt to invite or entice, persuade or induce in any manner whatsoever, any other person or persons to purchase or receive the same, except as hereinafter provided, shall be punished by a fine not exceeding five hundred dollars.

SEC. 4. All drawings of lotteries for which tickets may have been sold previous to May 1, 1889, shall as far as practicable be made before that date. If from any good and reasonable cause any person or persons or corporations conducting any of the lottery schemes now in existence in Montana find they cannot complete their drawings before May 1, 1889, they shall upon that date deliver all money, property, deed or deeds, or any other evidence of the title to any property, as security for the purchasers of such tickets or shares of such tickets, to the county treasurer of the county in which said lottery drawing is advertised to take place; and the district judge of such counties shall upon application of any person or persons interested appoint a receiver and designate to him the manner in which any such lottery scheme shall be conducted. And such receiver shall give a good and sufficient bond for the safe keeping of property and the faithful performance and carrying out of any drawing of any such lottery schemes, and the proper distributing of prizes connected therewith, and the county treasurer shall, upon application of the district judge, deliver to said receiver any money and articles that may have been delivered to him according to the provisions of this act: *Provided*, that nothing in this act shall be construed as to prevent the drawing and distribution of prizes lawfully licensed at the time of the passage of this act, but said drawing of prizes must be made on or before May 1, 1889, except as hereinbefore provided.

SEC. 5. The county treasurers of the several counties shall not issue a license for conducting or carrying on any lottery or lottery scheme of whatever kind or name, any license to extend beyond the first day of May, 1889. And any such license issued beyond that date is hereby declared null and void from that day, and any person or persons or corporation having paid for a county or city license, for any lottery where such license shall extend beyond the first day of May, 1889, shall be entitled to, and the county and city treasurers are authorized to refund to any such person or persons or corporation the amount which shall have been paid for such license for any time beyond the said first day of May, 1889.

SEC. 6. All acts and parts of acts in conflict with this act are hereby repealed.

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SEC. 7. This act shall take effect and be in full force on and after May 1, 1889.

Approved, March 14, 1889.

## MEDICAL EXAMINERS.

AN ACT to regulate the practice of medicine in the territory of Montana and to provide or the examination and issuing of certificates to persons desirious of practicing the same, and for the punshment of persons violating the provisions of this act.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That the governor with the advice and consent of the council, shall appoint seven learned, skilled and capable physicians, who shall have been residents of the territory of Montana for not less than two years preceding their appointment; not more than two of whom shall be from the same county, who shall constitute the board of examiners for the purposes of this act. The physicians so appointed shall hold their respective offices for seven years: *Provided*, That the terms in office of the seven first appointed shall be so arranged that the term of one shall expire on the thirty-first day of December of each year, and that the vacancies so created as well as all vacancies occurring otherwise, shall be filled by the governor by the advice and consent of the council: *And provided also*, That appointments made when the council is not in session, shall take effect immediately and may be confirmed at the next ensuing session.

SEC. 2. Said board of medical examiners shall elect from among their own number a president, secretary, and treasurer, annually, and shall have a common seal. Four members of said board shall constitute a quorum. The president and secretary shall have power to administer oaths in examination of applicants for certificates, and to witnesses called before the board in the transaction of business, under the provisions of this act. Said board of examiners shall hold meetings for examination at the capital of this territory, and such other central points within the territory as the board may select, on the first Tuesdays of April and October of each year, and at such other times as the board may determine. The first meeting of said board shall be held in Helena on the first Tuesday in April, 1889; said board shall keep a record of all procedings thereof, and also a record or register of all applicants for a certificate, together with his or her age, time spent in the study of medicine, and the name and location of all institutions granting to such applicants degrees or certificates of lectures in medicine or surgery; said register shall also show whether such applicant was rejected, or received a certificate under this act; said books and register shall be prima facie evidence of all the matters therein recorded.

SEC. 3. That every person wishing to practice medicine or surgery in any of their departments within this territory shall do so only upon complying with the requirements of this act. If a grad-

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uate in medicine, such person shall present his or her diploma to the territorial board of examiners, for verification as to its genuineness. If the diploma is found genuine, and is issued by a medical school legally organized and in good standing, whose teachers are graduates of a legally organized school, which fact the territorial board of examiners shall determine, and if the person presenting and claiming such diploma be the person to whom the same was originally granted, then the territorial board of examiners shall issue its certificate to that effect, and such certificate shall be conclusive as to the right of the lawful holder thereof to practice medicine and surgery within this territory; and any person coming to the territory may present his or her diploma to any member of the board of examiners, who may issue a certificate, good until the next regular meeting of the board. If not a graduate the person practicing medicine or surgery within this territory, unless he or she shall have been in continuous practice in this territory for a period of not less than ten years, of which fact he or she shall present to the territorial board of examiners satisfactory evidence of the same in the form of affidavits, shall appear before said territorial board of examiners and submit to such examination as may be required.

SEC. 4. All persons entitled to practice under the ten-year provision mention in section three of this act, and all persons hereafter commencing the practice of medicine and surgery in any of its branches in the territory, shall apply to said board for a certificate so to do, and such applicant, at the time and place designated by said board, or at the regular meeting of said board, shall submit to an examination in the following branches, to wit: Anatomy, physiology, chemistry, histology, materia medica, therapeutics, preventive medicines, practice of medicine, surgery, obstetrics, diseases of women and children, diseases of the nervous system, diseases of the eye and ear, medical jurisprudence, and such other branches as the board shall deem advisable, and present evidence of having practiced the required term of ten years, or of having attended three (3) courses of lectures of at least four (4) months each; said board shall cause such examination to be both scientific and practical, but of sufficient thoroughness and severity to test the candidate's fitness to practice medicine and surgery; when desired said examination may be conducted in the presence of the dean of any medical school or the president of any medical society of this territory. After examination said board shall, if the candidate has been found qualified, grant a certificate to such candidate, to practice medicine and surgery in the territory of Montana; which said certificate can only be granted by the consent of not less than four (4) members of said board and which said certificate shall be signed by the president and secretary of said board, and attested by a seal thereof. The fee of such examination shall be the sum of fifteen (15) dollars, and shall be paid by the applicant to the treasurer of said board, to be applied by said board towards defraying the expenses thereof; and

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such board may refuse or revoke a certificate for unprofessional, dishonorable, or immoral conduct, or refuse a certificate to any one who may publicly profess to cure, or treat disease, injury or deformity in such a manner as to deceive the public. In all cases of refusal or revocation, the applicant if he or she feels agrieved, may appeal to the district court of the county where such applicant may have applied for a certificate.

SEC. 5. Every person holding a certificate issued by said board shall within sixty days after the date thereof, have the same recorded in the office of the county recorder in the county wherein he or she resides, or should he or she remove from one county to another to practice medicine or surgery, his or her certificate must be recorded in the county to which he or she removes. The county recorder shall endorse upon the certificate the date of record, and he shall be entitled to charge and receive his usual fees for such services, the fee to be paid by the applicant.

SEC. 6. This act shall not apply to mid-wives of skill and experience, attending cases of confinement, nor to commissioned surgeons of the United States army or navy in the discharge of their official duties, nor to physicians or surgeons in actual consultation from other states and territories, nor to students practicing medicine under the direct supervision of a preceptor, nor to gratuitous services in cases of emergency.

SEC. 7. Any person practicing medicine or surgery within this territory without first having obtained the certificate to practice, herein provided for, or contrary to the provisions of this act, after the expiration of sixty days after this act takes effect, shall for each violation of the provisions of this act, be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than five hundred (500) nor less than one hundred (100) dollars, or by imprisonment in the county jail for not more than ninety (90) days nor less than thirty (30) days, or by both such fine and imprisonment, as the court may determine. Any person shall be regarded as practicing within the meaning of this act who shall append the letters "M. D." or "M. B." to his or her name, for a fee for prescribing medicine, operating in surgery, attending in obstetrics, recommending for the use of any sick person, the use of any drug or medicine, or other agency of treatment, cure or relief of any wound, fracture, or bodily injury of disease, as a physician or surgeon; *Provided, however*, That this act shall not apply to dentists practicing dentistry. The probate courts of the several counties of this territory shall have jurisdiction over violations of the provisions of this act. It shall be the duty of the respective county attorneys to prosecute violations of this act, and for each conviction had for violation hereof, the county attorney prosecuting shall receive a fee of five (5) dollars, to be taxed as costs, in addition to the fees now allowed him by law.



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SEC. 8. Candidates for examination shall pay in advance to the secretary of the territorial board of examiners a fee of fifteen (15) dollars, which fee shall defray the entire expenses of the aforesaid board of examination. Any one failing to pass the required examination shall be entitled to a second examination within six months without fee.

SEC. 9. Each member of the board is hereby allowed the sum of five (5) dollars per day and mileage while in the active and necessary discharge of his duties. And such expense shall be paid out of the fees so paid in.

SEC. 10. All acts and parts of acts in conflict with this act now in effect are hereby repealed.

SEC. 11. This act shall take effect and be in force from and after its passage.

Approved, February 28, 1889.

## MUNICIPAL CORPORATIONS.

AN ACT to amend chapter twenty-two fifth division of the compiled statutes of Montana, relating to municipal corporations and the amendments thereto approved September 14, 1887.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section three hundred and sixteen of chapter twenty-two fifth division of the Compiled Statutes of Montana be amended so as to read as follows: Section three hundred and sixteen, after filing said petition and census, if there be the requisite number of inhabitants for the formation of a municipal corporation as required in the preceding section, the county commissioners shall call an election of all the qualified electors residing in the territory described in the petition. Said elections to be held at a convenient place within the territory described in the petition to be designated by the county commissioners, notice of said election shall be given by publication in some newspaper published within the limits of the territory to be incorporated, or if none be published therein, by posting notice in three public places within said limits. The notice shall be published thirty days prior to the elections, and shall specify the time and place when the same shall be held, and contain a description of the boundaries of the city or town. The board of county commissioners shall appoint judges and clerks of election who shall qualify as required by law, and after the election they shall report the result to the board of county commissioners, together with the ballots cast at said election. The ballots used at said election shall be "for incorporation" or "against incorporation."

SEC. 2. That section three hundred and eighteen of chapter twenty-two, fifth division of the Compiled Statutes of Montana as amended by section one of "an act amending chapter twenty-two," approved September 14th, 1887, be amended so as to read as fol-

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lows: Section three hundred and eighteen; when any incorporation of a city or town is completed, the board of county commissioners shall give notice for thirty days in a newspaper published within the limits of the city or town, or if none be published therein, by posting notices in six public places within the limits of the corporation, of the time and place or places of holding the first election for offices of the corporation. At such election all the electors qualified by the general election laws of the territory, and who have resided within the limits of the city or town for three months, and within the limits of the ward for ten days preceding the election, shall be qualified electors and shall choose officers for the city or town, to hold office until fhe first annual election of officers as hereinafter prescribed. At said election there shall be elected one mayor, one police magistrate, one city attorney, one city treasurer for said city, and two aldermen from each ward into which the city may be divided, if the incorporation be of the grade of a city; if it be a town the electors shall choose a mayor and six aldermen, who shall manage the affairs of the corporation until the next general municipal election: *Provided*, That the ballots for alderman shall designate which is voted for the long term and which for the short term. The aldermen elected for the short term shall hold their office until the next general municipal election, and the aldermen elected for the long term shall hold their office until the next succeeding general municipal election. The persons so elected shall qualify in the manner prescribed by law for county officers. The board of county commissioners shall appoint judges and clerks of election and shall canvass and declare the result thereof. The election shall be conducted in the manner required by law for the election of county officers. At the first meeting of the board of aldermen of towns incorporated under this act they shall be divided into two classes. The seats of the first class shall become vacant in one year; she seats of the second class shall become vacant in two years; they shall also by ordinance divide the town into three districts, and at annual elections thereafter an alderman shall be elected from each district by the electors of such town. This section shall apply to all cities or towns incorporated under the incorporation act approved March 10th, 1887, and the amendments thereto approved September 14th, 1887, as well as to municipal corporations hereafter organized.

SEC. 3. That subdivision seven of section three hundred and twenty-five of chapter twenty-two be amended so as to read as follows: Subdivision seven—To license all pursuits, industries, professions or occupations: *Provided*, That in no case shall the municipal authorities require any license exceeding in amount that which is required to be paid under the territorial law for a like pursuit or occupation when the purposes of such license is for revenue only, but cities of the first and second class shall have authority to license, regulate or prohibit all pursuits or occupations, whether licensed or not by

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the territory, and not prohibited by the laws of Montana, as a police regulation in such an amount as shall be deemed proper by such municipal authorities.

SEC. 4. That subdivision nine of section three hundred, and twenty-five, chapter twenty-two, as amended by section two, of an act to amend an act for the formation of municipal corporations, be amended so as to read as follows: Subdivision nine—To contract an indebtedness on behalf of the city or town, upon the credit thereof, by borrowing money or issuing bonds for the following purposes, to wit: erecting public buildings, constructing sewers, constructing water works, supplying the city with water by contract, the purchase of fire apparatus, the construction or purchase of canals or ditches for supplying the city or town with water, the total amount of indebtedness authorized to be contracted in any form by virtue of this act shall not at any time exceed four per centum of the total assessed valuation of the taxable property of cities or towns incorporated under this act according to the last assessment: *Provided*, That no money shall be borrowed, or bonds issued for any purpose mentioned in this clause, until the proposition shall have first been submitted to a vote of the qualified electors of the city or town and a majority vote cast in favor thereof.

SEC. 5. That section three hundred and twenty-five, of chapter twenty-two, be amended by adding the following subdivision thereto: Sixty-four—The council shall have power to sell or dispose of or lease any property belonging to the city or town not held in trust for a specific purpose, and shall provide resolution or ordinance for such transfer by at least a two-thirds vote of the whole council. Sixty-five—To make any and all contracts to carry into effect the powers hereby granted, and to provide for the manner of executing the same. Sixty-six—To punish persons for selling or using opium or any preparation of opium, or for having opium or any preparation of opium, or any implement or implements used in smoking the same in their possession, or for keeping, maintaining, visiting or contributing to the support of a room or rooms where the same is smoked; *Provided*, That druggists may sell opium or any preparation of opium upon the prescription of any licensed or practicing physician; and such physician may also keep in his office for dispensing to his patients such opium.

SEC. 6. That section three hundred and thirty-one of chapter twenty-two be amended so as to read as follows: Section three hundred and thirty-one. Appeals shall be allowed from the judgment of any police magistrate or justice of the peace to the district court or county court of the county, in cases arising under this act, and the ordinances of the city or town subject to the same condition and requirements as now are or may be prescribed by law for appeals from justices court; *Provided*, That no appeal bond shall be in a sum less than one hundred dollars.

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SEC. 7. That section three hundred and forty-three of chapter twenty-two as amended by section three of an act to amend an act relating to the formation of municipal corporations, be amended so as to read as follows: Section three hundred and forty-three, the first common council elected as provided under section three hundred and eighteen of this act shall divide the city into wards for election and other purposes, having regard to population, so as to make them as nearly equal as may be: *Provided*, That cities of the first class shall not have less than three wards nor more than ten wards, and that cities of the second class shall have not less than two wards nor more than four wards: *And provided further*, That all changes in the number or boundary of wards shall be by ordinance, and no new ward shall be created unless it shall contain within its boundary at least one hundred and fifty voters. At the first annual election thereafter, there shall be chosen one mayor, one police magistrate, one city attorney, one city treasurer for said city and one alderman for each ward into which the city has been divided. The mayor of cities of the first and second class shall serve for one year from and after the first Monday in May after said election. The police magistrate, city attorney and city treasurer, shall serve for two years or until their successors are elected and qualified from and after the first Monday in May after said election. The aldermen elected from each ward at said election shall serve for two years from and after the first Monday in May after said election. Thereafter one alderman shall be elected for each ward of the city, who shall serve for two years. If any vacancy shall occur in the office of alderman by death, removal or otherwise, the same shall be filled by election, so that there may be always in the common council two members from each ward whose term of service shall expire in different years. If any vacancy occur in the office of city attorney, police magistrate, or city treasurer, the city council shall fill such vacancy until the next municipal election thereafter, when such vacancy shall be filled by election.

SEC. 8. That section three hundred and fifty-seven, of chapter twenty-two, as amended by section five of an act to amend "an act relating to the formation of municipal corporations," be amended so as to read as follows: Section three hundred and fifty-seven—The city marshal shall receive and be paid a salary, to be fixed by ordinance, not exceeding two hundred dollars per month. He shall execute and return all writs and processes to him directed by the police magistrate for violation of the city ordinances. He shall apprehend and arrest any person in the act of committing any offense against the laws of the territory or ordinances of the city, with or without a warrant, and bring such person forthwith before the police magistrate for examination or trial. He shall attend on the sittings of the police court. He shall report to the city council all delinquencies, neglect of duty, or official misconduct of the chief police or policemen for the action of the council. In the discharge of his

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duties, he shall possess like powers and be subject to like responsibilities as are constables of the counties: *Provided*, That he shall not have power to serve any writ or process in any civil cause or procedure except when the city is a party thereto. He shall have charge and control of the chief of police and all policemen. He shall hold his office one year from and after his election, unless suspended or removed. In case of suspension or removal, the city council may elect by ballot a person in his stead who shall hold office for the unexpired term of the marshal so removed.

SEC. 9. That section three hundred and fifty-eight of chapter twenty-two as amended by section six of "an act to amend an act relating to the formation of municipal corporations" be amended so as to read as follows: Section three hundred and fifty-eight—The city attorney to be elected shall be a person who has been licensed to practice as an attorney in this territory. He shall hold his office for two years unless suspended or removed as provided by this act. It shall be the duty of the city attorney to attend before the police court and other courts of the city and the district court and prosecute on behalf of the city, and he shall generally do and perform such other acts as pertain to the office of the city or corporation council. He shall when required draw for the use of the council, contracts and ordinances for the government of the city, and when required give to the mayor or city council written opinions on questions pertaining to the duties and the rights, liabilities and powers of the corporation. For such services he shall receive such salary and fees as may be fixed by the city council by ordinance. Nothing herein shall be taken or construed as preventing the city council from employing other and additional counsel in special cases and providing for the payment of such services. The city attorney may be suspended or removed from office by the city council for the neglect, violation or disregard of the duties required by this act or the ordinances of the city.

SEC. 10. That section three hundred and fifty-nine, of chapter twenty-two, be amended so as to read as follows: Section three hundred and fifty-nine—The chief of police, under the direction of the city marshal, shall have general control of all policemen and watchmen who shall be elected or appointed by the city council. He shall have like powers to suppress riot and disorder within the limits of the corporation as by this act are conferred upon the city marshal. He with all policemen elected or appointed shall be at all times subject to suspension or removal by the city council, with full authority on the part of the city council to appoint others in their stead.

SEC. 11. That section three hundred and sixty-one, of chapter twenty-two, be amended so as to read as follows: Section three hundred and sixty-one—The chief of police shall give bond in form similar to that required by law of constables. He shall, for all criminal offenses committed within the corporate limits of such city, possess the powers, enjoy the privileges and be subject to the lia-

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bilities conferred and imposed by law on constables, and be taken and included in all writs and papers addressed to constables in criminal cases and procedures. He shall execute all orders to him directed by the mayor, and all processes directed to him by the police magistrate, and to arrest with or without process, and it shall be his duty with reasonable diligence to take before the police magistrate every person found in such city in a state of gross intoxication, or engaged in any disturbance of the peace, or violating any law of the territory, or ordinance of the city. He may command all persons present in such case to assist him therein. He shall be entitled to the same fees allowed to constables for similar services in territorial cases; for other services rendered the city, such compensation as the council may fix. He may be removed for official misconduct by a two-thirds vote of the city council, approved by the mayor.

SEC. 12. That section three hundred and seventy-one, of chapter twenty-two, be amended so as to read as follows: Section three hundred and seventy-one—The police magistrate shall be elected by a plurality of the votes of the electors residing within the limits of the incorporated city in which he is chosen. He shall hold office for two years from and after the first Monday in May after his election. He shall have exclusive jurisdiction to try and determine all actions arising under the ordinances of the city, and in addition thereto shall have the same jurisdiction conferred by law upon justices of the peace, *Provided*, in no case for the violation of a city ordinance, shall a trial by jury be allowed; but on appeal to the district court the defendant in any such case shall be entitled to a trial *de noro* and by jury as a matter of right. He shall hold a police court that shall be open at all times from the hours of nine a. m. to six p. m. (except Sundays and legal holidays) for a trial of causes arising under the ordinances of the city. If a vacancy occurs in the office of police magistrate, or if he is temporarily absent, or incapacitated from discharging the duties of his office, the mayor may designate in writing some justice of the peace residing within the city to perform the duties of police magistrate, while such incapacity continues: *Provided*, That when the office of police magistrate becomes vacant from resignation, death, or removal from the city, then the city council may appoint some person residing within the city to fill the office of police magistrate until the next municipal election. The person so appointed shall qualify the same as though elected. The person so appointed shall receive the same compensation for services during the period he has performed the duties of police magistrate as the police magistrate is by this act, or the ordinances of the city, authorized to receive. All city officers mentioned in this act shall be required to reside within the limits of the city during their terms of office.

SEC. 13. That section three hundred and seventy-eight, of chapter twenty-two, be amended so as to read as follows: Section three

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hundred and seventy-eight—The county assessor shall, at the time of filing his return of property, file with the clerk or recorder of each incorporated city or town, a duplicate return of all property situate within the limits of any city or town in such county. The city council or board of aldermen of each incorporated city or town shall, prior to the first day of September, elect four of their number, and the aldermen so elected, together with the county commissioners, shall constitute a board of equalization, whose duty it shall be to equalize the assessments of property within the limits of the city or town as they may deem just and equitable. After the final adjournment of said board the city council shall have power until the first day of September next with respect to property assessed in any incorporated city or town upon proper cause shown by the party aggrieved, to make such rebate of such taxes or penalties, or both, as they deem just and equitable, and to order any tax which has been improperly assessed or paid by mistake to be refunded: *Provided*, That no such rebate shall be made except upon a written statement of the person aggrieved, subscribed and sworn to, which shall be filed and kept by the city clerk.

SEC. 14. That section three hundred and eighty-one, of chapter twenty-two, be amended to read as follows: Section three hundred and eighty-one—all fines and penalties imposed and collected by the police magistrate or justice of the peace for the infraction or violation of any ordinances of any city or town, shall be paid by him to the city treasurer. He shall take receipt therefor and shall render to the city council a weekly report, showing the amounts of all fines, penalties and costs collected, and the person to whom paid: *Prcvided however*, That in case there be a clerk to such police court, then it shall be the duty of such clerk to collect all fines and penalties and costs, as herein provided, and such clerk shall deliver all moneys so collected to the city treasurer and take his receipt therefor. The police magistrate shall tax the costs to the person found guilty and may enforce any judgment rendered thereon by execution or imprisonment, as authorized by this act. The costs in all cases arising under the ordinances of the city, shall be such fees as are allowed by ordinance and witness fees, and costs of serving subpœna as are allowed under the territorial law: *Provided*, That in no case shall any city officer or any witness be entitled to any fees unless the same shall have been collected by the city.

SEC. 15. That section three hundred and ninety-three chapter twenty-two be amended so as to read as follows: Section three hundred and ninety-three—The common council or board of aldermen may at any time order an election to be held at which the question of re-incorporation under this act shall be decided. If a majority of the qualified voters as defined by this act, shall vote in favor of re-incorporation of the city or town under the provisions of this act,

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they shall thereupon be incorporated hereunder in all respects and subject to all the provisions of this act as if originally incorporated hereunder, all the requirements of this act as to notice of the election, the appointment of judges and clerks thereof, the returns of the election, and canvassing the votes given, shall be complied with: *Provided*, The returns of the election shall be made to the mayor of the existing city or town, and not to the county commissioner.

SEC. 16. That section four hundred and fifteen as amended by " an act to amend an act relating to the formation of municipal corporations be amended so as to read as follows: Section four hundred and fifteen—The amount of corporation taxes to be assessed and levied in any one year on the taxable property of any city or town for general municipal or administrative purposes shall not exceed three-fourths of one percentum, and for fire and water purposes one half of one percentum on the assessed valuation of such property and such special assessments as may be levied from time to time as provided for under chapter twenty-two, fifth division of compiled laws of Montana and the amendments thereto.

SEC. 17. That section four hundred and twenty-seven be numbered and designated as section number four hundred and forty A, chapter twenty-two, fifth division compiled laws of Montana.

SEC. 18. That section four hundred and twenty-eight, of chapter twenty-two, be amended so as to read as follows: Section four hundred and twenty-eight—For the purpose of payment of expenses, including all damages and costs incurred in taking of private property, and of making any improvement mentioned in the preceding sections, the city council may by resolution levy and assess the whole or any part not less than half of such expenses as a tax upon such property as they shall determine is specifically benefited thereby, making therein a list thereof, in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied therein set opposite, such resolution signed by the mayor and clerk shall be published once in each week for two weeks in a newspaper published regularily in such city, or if there be no such newspaper published regularily in such city, three copies thereof shall be conspicuously posted by the clerk, and a notice therewith that at a certain time therein stated the council will meet at their regular place of meeting and hear all objections which may be made to such assessment or any part thereof, at the time so fixed the council shall meet and hear all such objections, and for that purpose may adjourn from day to day, and may by resolution modify such assessment in whole or part. At any time before the first day of August thereafter, any party liable may pay any such tax to the city treasurer. On such first day of August, if any such tax remains unpaid the clerk shall certify a copy of such resolution to the county clerk with a certificate of the city treasurer annexed, showing what taxes thereby levied remain unpaid, and the county clerk shall put

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the same with five per centum additional upon the tax-roll in addition to, and as part of all other city taxes therein levied on such land to be collected therewith: *Provided*, That whenever the benefits are assessed to any lot or parcel of land as provided in sub-division three of section four hundred and twenty-three, chapter twenty-two, the same shall not be again assessed as provided in this section.

SEC. 19. That section four hundred and thirty of chapter twenty-two be amended so as to read as follows: Section four hundred and thirty—The city council may cause any street or any part of any street to be graded, paved, macadamized or otherwise improved, or any sidewalk or gutter to be built upon the same, being ordered by two-thirds vote of the city council. For the purpose of so improving any street or building or repairing the sidewalk or gutter the city council may levy and cause to be collected upon the lots, tracts or parcels of ground on such street or part of street improved, or on the side thereof where such sidewalk or gutter is built, and upon the owners thereof, a tax sufficient to pay the expenses of constructing such improvements as ordered opposite such property to the center of the street or such proportion thereof, not less than half, as they shall deem assessable to such property, if they shall think the whole ought not to be assessed, in which case the remainder shall be paid from the city treasury. Every such tax for repairs shall be for the entire cost of the repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the city council may levy an additional tax thereon to make good such deficiency. The taxes and special assessments as provided for in this section shall be certified by the city clerk to the county clerk, and recorder, and by him to the county treasurer, and such taxes are special assessments shall be collected in the same manner as other taxes; such taxes and special assessments shall be a lien upon the property upon which they are assessed: *Provided*, That any person owning property where such improvements are to be made may make any such improvements required by the city council within thirty days after the same are ordered by the council, if done and performed in accordance with the ordinances of said city, and the orders and directions of the street commissioners thereof.

SEC. 20. That there shall be added to said law a section to be designated and numbered 440 B. Section four hundred and forty B—The city council of any incorporated city in addition to the powers conferred on said council by this act shall have power to establish and maintain at any time, from time to time, any general system or systems of sewerage for said city, or for any sewerage district or districts in which said city or any part of thereof is or may hereafter be divided, or for any part or portion of said city, in such

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manner and under such regulations as said council may deem expedient and to alter or change such system or systems of sewerage as said council may from time to time determine.

Sec. 21. That there shall be added to said law a section to be designated and numbered 440 C. Section four hundred and forty C—The cost of constructing, altering or repairing any of the sewers or improvements herein provided for or referred to, as nearly as can be ascertained, together with the necessary expense of making the assessment shall be assessed by the city council of said city or town upon the real estate benefited thereby, and enforced and collected in the manner and under the regulation for collecting other taxes and special assessments: *Provided*, That the said common council may order the constructing, altering or repairing of main sewers or such part of them or such proportion of the cost thereof as said council may deem expedient to be paid by said city at large, or from a district sewerage fund in each of said districts wherein such improvments may be located, or out of such fund as may be properly appropriated by said city council for that purpose, under such regulations as said council may prescribe. *Provided*, That whenever assessments are made upon the real estate benefited, for the partial or entire cost and expense of constructing, altering or repairing any of the sewers or improvements provided for in this section, such assessments when collected shall be placed by the city council to the credit of the fund from which the cost of the work was paid.

Sec. 22. That there shall be added to said law a section to be designated and numbered section four hundred and forty D. Section four hundred and forty D—Cities of the first class may establish the office of police court clerk. When such office is established the clerk of the police court shall give a bond in such amount as the council may determine, and shall receive a salary not to exceed one hundred and twenty-five dollars per month. He shall keep a docket of the proceedings of the police court and make a weekly report of all cases tried or disposed of in said court, the amount of fine, penalties and costs collected, and shall pay the same at the end of each week to the city treasurer taking his receipt therefor. Said court shall have a seal which shall be in the custody of the clerk. He shall have authority to take acknowledgements, administer oaths and take depositions and shall be entitled to fees therefor the same as allowed to notaries public. He shall file all papers in said court and have authority to issue summons, warrants, subpœnas, committments, executions, attachments and all other writs under and by direction of the police magistrate and the seal of said court attached. He shall give to any officer or other person entitled to any fees which may have been collected by said court an order on the city clerk for the amount an such order shall be authority for the city clerk to issue a warrant on the city treas-

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urer for such amount as in the order specified to the person entitled to the same. He shall perform all duties as may be prescribed by the ordinances of the city. When the said office of clerk of the police court is created he shall do and perform all clerical work pertaining to said court and collect all fines and fees thereof.

SEC. 23. That there shall be added to said law a section to be designated and numbered section four hundred and forty E. Section four hundred and forty E.—Any territory within the corporate limits of any city or town may be platted by the city or town and the cost of such platting shall be taxed to owner or owners of any such territory proportionately: *Provided*, That the owner of any such territory may have the same platted and such plat filed for record: *Provided*, That such plat shall not have any validity or rights until accepted by the city council. This section shall only apply to territory which has been sold by metes and bonds and is used for residence, business or town purposes.

SEC. 24. That there shall be added to said chapter a section to be designated and numbered four hundred and forty F. Section four hundred and forty F.—Section four hundred and thirty-one and four hundred and thirty-two of chapter twenty-two, fifth division compiled laws of Montana, be and the same are hereby repealed.

SEC. 25. This act shall take effect from and after its passage.

Approved, March 14, 1889.

## MUNICIPAL CORPORATIONS.

AN ACT relating to the compensation of the mayor and aldermen of incorporated cities, and authorizing ordinances to be passed regulating the construction of buildings.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. No person shall be an alderman in any city heretofore incorporated under any special law of the territory of Montana unless at the time of his election he shall be a tax-paying free-holder, within the limits of said city, and shall have resided within the said city limits one year immediately preceding his election, and shall have the requisite qualifications to vote for members of the legislative assembly, and be a resident of the ward for which he is elected.

SEC. 2. The mayor of any city having at the date of the passage of this act, a population of ten thousand or more, and heretofore incorporated under any special law of the territory of Montana, may be allowed and paid not to exceed six hundred dollars per year, and the aldermen of any such city not to exceed five dollars for each stated meeting of the city council: *Provided*, That no compensation shall be allowed for any meeting unless the party otherwise thereto entitled was in attendance upon such meeting.

SEC. 3. There shall be twenty-four stated meetings of the council of any city having at the date of the passage of this law a popula-

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tion of ten thousand or more, and heretofore incorporated under any special law of the territory of Montana, in each year, at such times and places as may be prescribed by the city council.

SEC. 4. The city council of each city having at the date of the passage of this law ten thousand people or more and heretofore incorporated under any special law of this territory shall have the power and authority by ordinance to regulate the construction of buildings within the limits of said city, and also to provide for and regulate the inspection of milk and other articles for food or drink in said city.

SEC. 5. No city heretofore incorporated under any special law of this territory shall be required to pay into the county treasury of the county within which the same is situated, any portion of the street taxes assessed and collected in said city, in excess of the ten per centum thereof.

SEC. 6. All charters or other laws relating to or applying to, or affecting any city having at the date of the passage of this act a population of ten thousand or more and heretofore incorporated under and by virtue of any special law of this territory, are hereby amended to conform to the provisions of this act, and all acts and parts of acts in conflict with this act are hereby repealed. This act shall take effect April 1st, 1889.

Approved, March 14, 1889.

## NATIONAL GUARD.

AN ACT to provide for the organization, regulation and discipline of the National Guard of Montana.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. The regularly enlisted, organized and uniformed active militia of Montana shall be styled the National Guard of Montana, shall be subject at all times to the orders of their officers, and shall be composed of able-bodied citizens of the territory of Montana, above the age of eighteen.

SEC. 2. In time of peace, the National Guard shall consist of not more than ten companies of infantry, two troops of cavalry, and one battery of artillery (with not more than four guns), fully armed, uniformed and equipped, to be allotted and apportioned to such localities as the necessity of the service, in the discretion of the Commander-in-Chief may require, and organized in such regiments, battalions and unassigned companies, with power to make such alterations in the organization and arrangement thereof from time to time as he may deem necessary: *Provided*, That until otherwise authorized by law, or until the exigencies of the service sore quire, in the discretion of the Commander-in-Chief, there shall not be more than one colonel and one lieutenant-colonel of the line. But the Commander-in-Chief shall have power in case of war, invasion, insurrection, riot,

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or imminent danger thereof, to increase said force, and organize the same, and appoint or commission such officers to command the same as the exigencies of the occasion may require.

SEC. 3. The organization of the National Guard shall conform from time to time to the provisions of the laws of the United States regulating the organization of the army thereof, and the system of tactics and discipline shall always be the same. The National Guard shall be divided into similar departments and arms of service—the maximum of companies, troops, batteries, battalions, regiments and other aggregations of the force. The number, title and rank of officers who may be commissioned or appointed to command the same, and all other details of organization, instruction and discipline, shall be similar to those from time to time prescribed for said army. The Commander-in-Chief may increase the number of officers and enlisted men of the company, troop, or battery, as the president of the United States, by the laws thereof, is empowered to do respecting similar detachments of the army; and he and other officers of the National Guard may make the same details of officers of the National Guard, and similar details of non-commissioned officers and enlisted men, under similar conditions, as are made in said army for the discharge of similar duties: *Provided*, That no company, troop, or battery of the National Guard shall have less than thirty enlisted men, and every such organization having less than that number for two consecutive months, shall be disbanded and its officers and enlisted men mustered out of the service.

SEC. 4. The Commander-in-Chief is authorized to appoint such number of aides-de-camp as he may deem necessary, not exceeding four, who shall have, while serving on his staff, the rank of colonel of cavalry.

SEC. 5. The general staff shall not consist of more than seven, viz: One Adjutant General, one Inspector General, one Commissary General, one Quarter-master General, one Surgeon General, each with the rank of Brigadier General, one Ordinance Officer, one Mustering Officer, each to have the rank of Colonel of Cavalry, and they shall hold their commission during the pleasure of the Governor.

SEC. 6. The Adjutant General shall distribute all orders of the Commander-in-Chief and shall obey all orders relative to carrying into execution and perfecting any system of military discipline, established by law. He shall annually make a return in duplicate of the militia of Montana, with their arms, accoutrements and ammunition, according to such form as may be prescribed by the Secretary of War of the United States, one copy of which he shall deliver to the Commander-in-Chief, and transmit the other to the President of the United States on or before the first Monday in February. He shall annually in December lay before the Auditor an account with vouchers of his expenditures as Adjutant General. The inspector

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General, the Commissary General, the Quarter-master General, the Ordnance Officer, the Surgeon General, and the Mustering Officer shall perform such service as the Commander-in-Chief may direct. The Ordinance Officer shall be ex-officio an assistant departmental officer in the several departments except the medical department. He shall have the immediate custody of the arsenals and depots in which the military stores of all kinds are stored; shall keep accurate account of all such stores received and issued by him, for which service he shall be paid a compensation of three hundred dollars per annum. He shall give bond for the safe keeping of such stores in such sum as the governor shall fix. The general staff and aids to the Governor shall be appointed by the Governor; the regimental or battalion staff including commissioned as well as non-commissioned officers, by the Colonel or other officer commanding. Non-commissioned officers by the Captain or Company Commander with the approval of the battalion or regimental commander who shall issue his warrant to each non-commissioned officer appointed, or whose appointment is confirmed by him. Company officers shall be elected by the members of the company, and battalion or regimental officers by the companies composing the battalion or regimental except the officers of the battalion or regimental staff, who shall be appointed as hereinbefore provided.

SEC. 7. Orders for the election of officers shall emanate from their Adjutant General's office, and he shall fix the time and place for holding the same and designate the officer to preside thereat, but in his discretion except in the case of the election of company officers, the time of the election may be designated by him, and the electors authorized to designate their choice by written ballots to be mailed to him, and opened and counted by him on the day fixed for such election, and filed and preserved by him, and he shall declare the result of such election according to the choice of the majority of such ballots. Fifteen days notice shall be given of every election provided for in this act, and no proxies shall be allowed to vote at any election. In case the electors personally attend the election, they shall appear and transact the business thereof in uniform. No election of officers shall be ordered in a company unless the prescribed minimum number of men have been inlisted therein, in addition to the number of officers to be elected, and upon the enlistment of that number a notification shall be given through the Adjutant General to the Commander-in-Chief by one or more petitioners of the company and an election of officers shall be ordered, unless the Commander-in-Chief in his discretion otherwise directs.

SEC. 8. Every commissioned officer, before he enters upon the duties of his office or excercises any command, shall take and subscribe, before any person duly authorized, such oath or affirmation as may be prescribed by the Commander-in-Chief, which shall not

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be inconsistant with the oath or affirmation prescribed by the laws of the United States. A similar oath or affirmation shall be administered to every enlisted man at the time of his enlistment, and all officers of the National Guard are hereby authorized and empowered to administer oaths and affirmations, in all matters appertaining to or concerning the National Guard service, but in no case shall they charge any fee or compensation therefor. Any person who shall falsely swear or affirm to any oath or affirmation so administered, shall upon trial and conviction be deemed guilty of perjury, and punished for such offence as now prescribed by law.

SEC. 9. Commissions signed by the Governor and countersigned by the Adjutant General, who shall keep an abstract thereof in his office, shall be issued by him to officers entitled thereto. The commission of a staff officer appointed by a commanding officer, shall expire as soon as the successor of such commanding officer is commissioned and qualified. If such staff officer was appointed from the line he shall forthwith report to his commanding officer for duty.

SEC. 10. The Commander-in-Chief may discharge a commissioned officer: First, when such officer tenders his resignation; second, when it appears to the Commander-in-Chief that he has been found by a court-martial, court of inquiry, or military board, is unable, or unfit to discharge the duties of his office, or to exercise proper authority over his inferior officers or enlisted men, or that he has been convicted of a felony; third, when either before or after receiving his commission, he has removed his residence out of the bounds of his command, to so great a distance that it is inconvenient for him to perform the duties of his office; fourth, when he has been absent from his command more than three months without leave; fifth, upon address of both houses of the legislature to the Governor; sixth, upon sentence of a court-martial, after trial according to law; seventh, upon recommendation of the board of examination, as prescribed by section two.

SEC. 11. A military board shall be appointed by the Commander-in-Chief from time to time, to consist of the Adjutant General, Assistant Inspector General, Colonel, Major, and one captain of the line to hold office until the order convening the same is rescinded, whose duty it shall be to examine the capacity, qualification and efficiency of every commissioned officer who may hereafter be elected; and upon report of said board, if adverse to said officer, and approved by the Commander-in-Chief, the commission of such officer shall be vacated or denied, and a new election ordered: *Provided*, always that if any officer shall refuse to report himself when directed before such board, the Commander-in-Chief may, upon report of such refusal, declare his commission vacated or refuse the same, and direct a new election; and in case any company shall neglect, within thirty days after the finding of such board, approved by the

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Commander-in-Chief, to elect a suitable officer, the Commander-in-Chief may assign a suitable officer to fill the vacancy in such organization, or disband the same in his discretion.

SEC. 12. The term of every commissioned officer shall be for three years, unless his commission shall be otherwise lawfully determined and annulled. Every enlisted man shall serve for the period of three years, unless sooner discharged for disability, which incapacitates him to perform his duty or for other sufficient cause. They shall be entitled to the exemptions from civil duties as now provided by law.

SEC. 13. The company commander, upon the approval may, and upon the order of his superior commanding officer shall for good cause shown discharge any enlisted man of his company, and all commanding officers may for cause, discharge their non-commissioned staff officers; the certificate of discharge by such company or other commanding officer shall, when approved by the Commander-in-Chief, in all cases, be good, sufficient and valid.

SEC. 14. If it appears to the Commander-in-Chief that a company of the National Guard has failed to comply with the requirements of the law in matters of uniform, equipment and discipline so that it is incapacitated to discharge the duties required of it, such company may be disbanded by him.

SEC. 15. The Adjutant-General shall hold his office for the term of four years, and until his successor is appointed and qualified, but he may be removed at any time by the Commander-in-Chief.

SEC. 16. He shall distribute all orders from the Commander-in Chief, shall obey all orders relative to the carrying into execution and perfecting any system of military descipline established by law, shall be in attendance when the Commander-in-Chief reviews the National Guard, and perform such other military duties as the Commander-in-Chief shall direct.

SEC. 17. He shall furnish to the National Guard at public expense, blank forms of rolls and of the different returns that may be required, and other convenient forms, and shall also make proper abstracts from the returns of the commanding officers, and lay the same before the Commander-in-Chief with his report biennially.

SEC. 18. He shall annually make a return, in duplicate, of the militia with their arms, ordnance stores, quartermaster's stores, camp equipage and other military stores according to such forms as may be prescribed by the Secretary of War of the United States, one copy of which he shall deliver to the Commander-in-Chief, and transmit the other to the Adjutant General of the army when required by him.

SEC. 19. Officers of the general staff, or staff of the Commander-in-Chief, may be ordered upon special duty in the discretion of the Commander-in-Chief, and shall receive the pay provided by section twenty-six during the time they may continue upon duty under such



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order. The Adjutant General shall have the custody of all books, accounts and military stores, and shall be required to give security in the sum of two thousand dollars for the faithful performance of his official duties: His salary shall be five hundred dollars per annum, payable quarterly out of the treasury of Montana.

SEC. 20. There shall be held once in every year an encampment of the National Guard, not to exceed seven day's duration, at such times and places as the Commander-in-Chief shall direct, and during such encampment there shall be made by the Inspector General an inspection of the troops. For service during such encampment the troops shall be entitled to the necessary transportation, and subsistence and per diem, as prescribed by section twenty-six, which shall be paid upon warrants of the Adjutant General, approved by the military board. In addition to the inspection above provided for, such other inspections of the troops shall be made, under the direction of the Inspector General, as may be ordered by the Commander-in-Chief.

SEC. 21. The non-commissioned officers of the regimental and battalion staffs shall be entitled to the same pay, and allowances for uniforms and equipments as are allowed first sergeants.

SEC. 22. Transportation and subsistence will be furnished to officers and enlisted men of the National Guard for attendance upon court-martial, boards of examination and other special necessary service, as orders may require of said officers, which shall be made by the Commander-in-Chief; and the necessary expenses and per diem, as provided in section twenty-six, lawfully incurred, shall be audited and paid, upon proper vouchers, by the military board.

SEC. 23. There shall be a public parade and inspection of every company of the National Guard, in the daytime, on the thirtieth day of May in each year. The inspection shall be conducted by officers detailed for the purpose by the Commander-in-Chief, and such detail shall be made at sufficient time before the said day to enable each officer so detailed to notify the commander or commanders of the company, companies, battalion or regiment which he or they will inspect, of the hour and place at which they shall assemble for such inspection. The reports of such inspecting officers shall be immediately forwarded to the Adjutant General, who shall thereupon, as promptly as possible, convene the military board, before which such reports shall be laid by him, and if each company is found by said board, on examination of its muster roll and the report of the inspecting officer, to be fully up to the standard of numbers, discipline and efficiency required by this act, each such company shall receive from the treasury of Montana the allowance now annually made by law, which shall be applied to the payment of armory rent and to defray other expenses necessary to maintain it. Such payment shall be made upon report of the Adjutant General of the action of the military board approving the same to the proper auditing officer of Montana, who is hereby empowered to draw warrants upon

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the treasurer for the proper amounts. Any such fund, and all other funds in the treasury of the company when it is disbanded or mustered out, shall be paid forthwith by the officer mustering out into the treasury of Montana; and he is hereby authorized and directed to collect and receive all such money to that use.

SEC. 24. In all other cases of military claims or bills adjusted by the military board, payment shall be made in like manner, and the said board shall determine to whom a warrant shall issue for the amount found due, to be promptly accounted for by the person receiving the same by sufficient vouchers to the Adjutant General.

SEC. 25. No bill or allowance authorized by the provisions of this act, shall be approved by the military board, unless the said bill or claim is itemized, and its correctness established to the satisfaction of said board.

SEC. 26. The members of the National Guard shall receive out of the treasury of Montana the same compensation when serving in annual encampments as now provided by law to be paid when called into active service by the Governor in case of invasion, riot, or insurrection; and each battery, troop, and mounted officer, properly mounted and equipped, shall receive actual expenses for horses for all parades and services required by law, and the bills for the same, with the necessary vouchers approved by the proper officer, shall be forwarded to the Adjutant General, and when found correct, and approved by the military board, warrants shall be drawn, upon the report of the Adjutant General, by the proper auditing officer, upon the Treasurer for the respective amounts, in favor of the commanding officers, respectively, in the manner prescribed by law. The necessary expenses of regimental and battalion headquarters, including clerk hire and other actual outlays, shall be allowed and paid in the same manner; such expenses in no event to exceed one hundred and fifty dollars per annum for each regiment or battalion.

SEC. 27. Arms, ordnance stores, quarter-master's stores, camp equipage and other military property, whether issued by the United States as the property thereof or purchased, owned and issued by Montana, shall be deemed, for all the purposes of this section, the property of Montana, and shall be used only in the discharge of military duties. Any member of the National Guard who shall embezzle, misapply, retain in his possession without authority, or who shall wilfully or wantonly injure or destroy, or who shall sell, dispose of, secrete or remove without authority any such property shall be deemed guilty of a misdemeanor and subject to trial by court-martial therefor, in time of peace or otherwise; and on conviction therefor by said court shall be fined in a sum double the value of the property involved in his offense together with the costs of prosecution, including the cost of convening and maintaining such court, and in default of payment thereof

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shall be imprisoned not exceeding six months, in the jail of the county where the offense was committed, or where the court is held, and the warrant of the Commander-in-Chief to the sheriff or any constable of any such county shall be sufficient authority for the committment and the detention in such jail, of such convicted offender. Any person not a member of the National Guard who shall knowingly and wilfully receive in pawn or pledge, or who shall purchase or otherwise acquire, or who shall have in his possession and refuse, upon demand of the Governor, through any proper military channel, to deliver as thereby required, any such property, shall be deemed guilty of a misdemeanor and upon conviction by any court of competent jurisdiction shall be fined in a like sum as to value, and the costs of prosecution, and in default of payment shall undergo imprisonment in the jail of the county in which the offense was committed for a like period. And it is hereby made the duty of every county attorney, on complaint of any officer of the National Guard, that the offense last aforesaid has been committed, to take and file said complaint with the proper court, and to prosecute the same. So much of the money assessed as the value of such property, in either of the cases aforesaid shall be paid to the Adjutant General, when collected, to enable him to replace by purchase the articles of property involved in the prosecution, and the remainder shall be paid in case of court-martial into the treasury of Montana, and in case of prosecution in any other tribunal then as directed by law in other criminal cases.

SEC. 28. If any officer or soldier is wounded or disabled, or is killed or dies of wounds received while doing duty in actual service, he, his widow or children, shall receive from Montana such relief as the legislative assembly to whom notice of such disability or death shall be brought, shall deem just and reasonable.

SEC. 29. The Adjutant General shall provide and issue to the National Guard, for rifle and artillery practice, such ammunition as may be necessary for the efficiency of the service, and he shall provide fully such conveniences of rifle practice for the National Guard as shall be recommended by the military board, and approved and ordered by the Commander-in-Chief, and paid as other expenses are paid.

SEC. 30. All commissioned officers who shall have held continuous rank for a period of six years, may, upon their honorable retirement from service, be carried upon a roll to be established and maintained in the Adjutant General's office, which roll shall be designated "the roll of retired officers," and shall be entitled to wear, on state occasions, the uniform of the highest rank which they may have held.

SEC. 31. The commanding officer of each infantry, cavalry and artillery company shall, at each and every annual inspection, return to the Adjutant General an itimized account and statement of all

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public property, arms, ordnance stores and camp equipage, and of all disbursements of the money appropriated during the preceding year to said company, which account and statement shall be verified by the oath or affirmation of such commanding officer and shall be accompanied by the proper vouchers for such disbursements.

SEC. 32. The Adjutant General shall purchase at the expense of Montana, and supply to all officers of the National Guard, copies of tactics prescribed for the use of the United States Army, manual of rifle practice, and such manuals of service, and such other forms and books and papers as the Commander-in-Chief may designate, together with copies of this act, and all subsequent acts which shall be, with the laws now in force, not repealed hereby, collected from time to time and codified by the Adjutant General and known as the "military code of Montana."

SEC. 33. The commanding officer of any troops under arms may cause them to perform any military duty he shall require, and also put under arrest any officer, and under guard any non-commissioned officer, musician or private who shall disobey the orders of his superior officer; also all other persons who shall trespass on any parade or camp ground, or in any way or manner interrupt or molest the orderly discharge of duty of those under arms; and also may prohibit and prevent the sale of spirituous liquors within one mile of such parade or encampment, and also in his discretion all hucksters or auction sales, or gambling may be abated as a nuisance.

SEC. 34. There may be enlisted and attached to each regiment or battalion, a military band of not less than fifteen nor more than twenty musicians, who shall be entitled to the pay, clothing and allowance prescribed by law for other members of the National Guard, and in addition thereto said band shall be entitled to receive annual appropriation for armory rent, equal to one-half the amount given to a company of infantry, to be paid by warrant drawn in favor of the regimental quartermaster. The leader of said band shall be entitled to the rank, pay and allowance of a sergeant major. The said band shall be subject to the orders of the commander of said regiment, who may discharge and recruit said band at his discretion. The duties of said band shall be to furnish music for the troops at the regular parades required by law, and upon such military occasions as the regimental commander shall direct.

SEC. 35. The publication, according to military usage, of the written or printed orders from or through regimental or battalion headquarters, by the company commander, announcing the duty to be performed, shall be sufficient warning to the officer or soldier directed to perform such duties. Military duty shall require the attendance of commissioned officers, non-commissioned officers, musicians and privates on all occasions of drills, parades and encampments, and active service ordered by the commanding officer of the

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company, regiment, battalion, or the Commander-in-Chief, or provided for by the company by-laws, unless excused therefrom by the officer having authority to grant such excuses; and while on such duty, or going to, or returning from the same, obedience shall be rendered to all rules, regulations, usages, customs and requirements of the army of the United States, and of this code.

SEC. 36. Every company of the National Guard may form by-laws, rules and regulations, not inconsistent with law, for the government and improvement of its members in military science and discipline; and when approved by two-thirds of all the members belonging to any such company and the Adjutant General, such by-laws, rules and regulations shall be binding; but the same may, upon like approval, be altered from time to time as may become necessary.

SEC. 37. When an invasion of, or insurrection of Montana is made or threatened, or a tumult, riot, or mob shall exist, the Commander-in-Chief shall call upon the National Guard, and at his discretion, upon the enrolled militia, to repel or repress the same, and may order out divisions, brigades, regiments, battalions or companies, or may order to be detached parts of companies thereof, or any number of men to be detailed therefrom, and may appoint officers to command the same, or may cause officers to be detailed sufficient with those attached to the troops to organize the forces. Every officer and soldier shall hold his uniform, arms, ammunition and accoutrements required by law, free from all suits, distresses, executions or sales for debt, or payment of taxes, and he shall be exempt from all poll taxes.

SEC. 38. The Adjutant General may, under the direction of the Commander-in Chief, make such disposition of the military property as will most effectually serve the military interests or necessities. He shall cause to be distributed to the officers, regiments, battalions and companies of the National Guard, the arms, ordnance stores, quartermaster's stores, camp equipage and books required to be issued thereto. Company commanders and all other officers shall make a return quarterly to the Adjutant General upon such proper forms and blanks as he may require of all government and territorial property and stores in their possession, or for which they are responsible.

SEC. 39. The Governor is authorized to procure and issue to the National Guard such flags, standards and guidons as may be required, similar to those used by the Army of the United States, and also such as may be prescribed by the legislature of Montana. No other colors shall be displayed by the National Guard on duty, or parade as such, and any violation of this requirement shall cause the offender to be dismissed from the service, or the organization to be disbanded and mustered out.

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SEC. 40. Courts of inquiry may be instituted under similar conditions and for similar purposes as such courts are in the Army of the United States, and they, and all other courts authorized by this act, shall be constituted and convened as nearly as practicable, as similar courts are constituted and convened by the laws, regulations and articles of war for the government of the Army of the United States, and the procedure thereof shall be the same as prescribed by such laws, regulations and articles except as in this act otherwise specially provided.

SEC. 41. A court of inquiry shall without delay report a statement of facts and an opinion thereon to the Governor, who may in his discretion, thereupon appoint a court-martial for the trial of the officers whose conduct shall have been inquired into.

SEC. 42. Every court-martial for the trial of officers or enlisted men shall be ordered and appointed by the Commander-in-Chief.

SEC. 43. The officer ordering such court may at any time supply a vacancy that from any cause may happen therein; but the member filling such vacany shall not sit or participate in the trial of a case commenced before he was qualified.

SEC. 44. In time of peace the jurisdiction of court-martial shall extend to and include the trial of all offenses against military law, order or discipline, to all infractions of duly approved company by-laws, to non-attendance at drills, abuse or neglect of arms and clothing and insubordination, disrespectful conduct towards a superior officer and all minor offenses against military discipline. Their sentences, except as otherwise provided in this act, may inflict one or more of the following punishments, namely. Reprimand: forfeiture in whole or part of pay and allowances; a fine not exceeding one hundred dollars, or, in default of payment of the same for twenty days suspension of officers from rank; dishonorable discharge from service; and in the case of non-commissioned officers, their reduction to the ranks.

SEC. 45. No officer or enlisted man under arrest, shall be brought to trial unless the officer convening the court-martial shall have ordered the same within thirty days after such arrest; nor until ten days after a copy of the order convening the court and of the charges and specifications shall have been delivered to the accused, or left at his usual or last known place of abode.

SEC. 46. The proceedings of every court-martial shall, without delay, be delivered to the Adjutant General for the action of the Commander-in-Chief, who shall approve or disapprove thereof, within fifteen days thereafter, and shall publish his approval or disapproval in general orders.

SEC. 47. The president of such court-martial shall issue his warrant, for the collection of all fines imposed by a court-martial upon the approval of the sentence by the Commander-in-Chief, to the sheriff or any constable of the county in which the court was held,

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or in which the delinquent resides, whose duty it shall be to collect all fines provided for by this act, in the same manner as he is authorized to collect debts in civil process, and make his return to the president of the said court, or within thirty days certify to the said president that there is no property of the defendant out of which said moneys can be made.

SEC. 48. Warrants may issue to the sheriff or any constable of any county in which any property not exempt from execution of the offender may be, out of which any such fines may be collected; and such warrants may be issued and executed in the same manner as executions issued out of the district court are.

SEC. 49. The keepers and wardens of all county jails are required to receive and confine all military offenders, when delivered by such sheriff or constable under the proper certificate of commitment of the president of a court-martial, for and during the term of sentence, as set forth in said commitment.

SEC. 50. After a return of a summons citing the accused to appear, and he fails to appear at the time and place designated for trial, the president of the court shall issue his warrant for the arrest of the delinquent directed to the sheriff or to a constable of the county, who shall forthwith execute said warrant, and make proper return thereof to said court, and produce to the said court the body of the accused, if within said county, and retain the custody thereof until the conclusion of the trial, unless sooner discharged by order of the court.

SEC. 51. The president of every court-martial, and every court of inquiry, both before and after he has been sworn, shall issue subpœnas for all witnesses, whose attendance at such court may, in his opinion, be necessary in behalf of the prosecution, and also on application, for all witnesses in behalf of the accused, or person returned as delinquent.

SEC. 52. The president of every court-martial, or court of inquiry, shall have power to administer the usual oath to witnesses, and shall have the same power to compel attending witnesses to be sworn and testify, and to preserve order, as courts of common law jurisdiction; and all sheriffs, jailers and constables are hereby required to execute any precept or process issued by such president of the court for that purpose.

SEC. 53. Every witness not appearing in obedience to such subpœna, when duly served, and not having a sufficient or reasonable excuse, shall forfeit to Montana a sum not less than ten nor more than fifty dollars for each default; and the president of such court shall, from time to time, report to the county attorney the names of such delinquent witnesses, together with the names and places of residence of the persons serving such subpœna, the better o enable him to prosecute for such forfeiture.

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SEC. 54. Whenever it shall appear to the satisfaction of any court-martial, or court of inquiry, by proof made before such court, that any person duly subpœnaed to appear as a witness before said court, shall have refused or neglected, without just cause, to attend as such witness, as in conformity to such subpœna, and the party in whose behalf such witness shall have been subpœnaed, shall make oath that the testimony of such witness is material, such court, or the president thereof, shall have power to issue an attachment to compel the attendance of such witness.

SEC. 55. Every such attachment shall be executed in the same manner as a warrant, and by the sheriff or the constable of the county; and the fees for serving the same shall be paid by the person against whom the same shall have been issued, unless he shall show reasonable cause, to the satisfaction of such court, for his omission to attend, in which case the party requiring such attachment shall pay the costs; such costs shall be ascertained by the court, which may thereupon issue an execution for the collection against the person liable to pay the same, and which may be collected as other executions are collected by said sheriff or constable.

SEC. 56. All fines imposed and collected through the sentences of courts-martial shall be paid into the treasury of Montana; and the neglect or refusal of any marshal, sheriff or constable to execute any process, or to make proper return of all fines collected, shall be deemed a misdemeanor, and shall subject the offender to a prosecution by the proper county attorney, and to a penalty upon conviction of each offense of one hundred dollars to the use of Montana.

SEC. 57. Any officer or soldier failing to appear upon any occasion of duty, to which he shall be ordered by his proper commanding officer, failing to render good and sufficient cause therefor, shall be subject to a trial by court-martial and upon conviction he shall be sentenced to pay such fine, or undergo such other lawful punishment as such court-martial may direct.

SEC. 58. Officers under arrest shall be suspended from exercising the duties of office, and resignations tendered under charges when forwarded by any commander, shall always be accompanied by a copy of the charges, or, in the absence of written charges, by a report of the case, for the information of the Commander-in-Chief.

SEC. 59. The number and rank of officers constituting courts-martial or courts of inquiry, and the forms, practice and precedure in all courts-martial and courts of inquiry shall, except as herein otherwise prescribed, be adopted and conducted as in similar tribunals in the United States Army.

SEC. 60. Judge advocates and members of courts-martial and courts of inquiry and their orderlies shall be allowed per diem pay, for time actually employed in the duties assigned them at the same rate as provided by law while in actual service or annual encampment. Transportation and subsistence shall be furnished them, as well as

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to all prosecutors, prisoners, witnesses, marshals, sheriffs and constables, to and from the place or places designated for the meetings of said courts. The fees of sheriffs and constables for serving the processes provided for in this act, shall be the same prescribed by law for similar processes of a civil nature, and shall be paid out of the treasury of Montana.

SEC. 61. The uniform of the National Guard of Montana both dress and fatigue, and all other articles of clothing used by the troops, shall be the same as may be from time to time prescribed by the United States for the army thereof, or such as may be adopted by the legislature of Montana, and the National Guard shall be armed and equipped as the army of the United States.

SEC. 62. Companies may at their own expense provide a different uniform, but the same shall not be worn upon any occasion without the permission of the Commander-in-Chief, while such company or companies are in active service, or upon any stated parade days, or at the annual encampment; and no allowance on any account made to such company or companies shall be applied to the purchase of such uniform

SEC. 63. Each company commander of the National Guard is authorized and empowered upon all occasions, when his company is in actual service or at an annual encampment to employ two company cooks whose compensation shall be adjusted and allowed by the military board and paid as other claims hereinbefore provided are paid.

SEC. 64. The Governor may, whenever an exigency arises deemed in his opinion necessary therefor, authorize the enrollment of the whole body of the militia, and he may organize the same into companies, battalions, regiments, brigades and divisions, and provide for the election or appointment of suitable officers to command the same, which enrollment and organization and election or appointment of officers shall be under such rules and regulations as he may prescribe.

SEC. 65. The Governor is hereby authorized to provide a suitable arsenal at the seat of government for the storage, safe-keeping and preservation of all arms, ordnance stores, quartermaster's stores, and other military supplies, and no such stores shall be issued to the National Guard except upon the requisition of the officer requiring the same, particularly specifying the stores required; and such bond with such sureties to the approval of the Adjutant General, shall thereupon be executed by the requiring officer as may be necessary to protect the interest of the United States and of the Governor of Montana as the agent of the United States in that behalf; which bond shall be in such form as the Governor or Adjutant General may prescribe. If the stores are the property of Montana, such bond shall be conditioned for the protection of the interest of Montana therein, which bond may also be in such form as the Governor or Adjutant General shall prescribe.

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SEC. 66. Requests for transportation and subsistence when required for the troops, or for any officer or enlisted man, shall be in such form as the Adjutant General shall prescribe, and he shall also prescribe all other forms and blanks, and issue the same from time to time as the welfare of the service may require.

SEC. 67. The by-laws of each company of the National Guard shall provide stated days for drill and military instruction, not less than one each week, during at least eight months in each year, and shall fix the hour of the day at which the company shall assemble therefor, and shall prescribe at least one hour for such drill and instruction each such day, and every officer and enlisted man of the company is hereby required to be present at such drill and instruction and to participate therein, and shall not be excused therefrom without good cause; and any failure without good cause to be present thereat shall subject him to court-martial and to such penalties as the court may prescribe. Company commanders of unassigned companies shall report directly to the Adjutant General, and company commanders belonging to a battalion or regiment shall report directly to the battalion or regimental commander, whose consolidated report shall be forwarded to the Adjutant General; and all returns of company, battalion or regimental commander shall be made once a month, and, as nearly as practicable, on the last day of each month. Such returns shall be in such form as the Adjutant General may prescribe, and shall show the percentage of the members of each company who have attended each stated drill during the preceding month, duplicates of which in all cases shall be forwarded to the Adjutant General, and in case such percentage for the whole month is less than forty per cent. of the strength of the company, the Commander-in-Chief may, in his discretion, disband the same, and require all the public property in its possession to be delivered to the proper officer and be returned to the arsenal.

SEC. 68. The three stated days for public parade and military exercise heretofore provided by law to be fixed by each company shall be exclusive of the annual encampment.

SEC. 69. This act shall not affect the commission of any officer of the National Guard now in the service thereof as officers of the line, but they shall respectively continue in service by virtue of their commissions for three years from the date thereof, respectively, at which time they or other officers may be elected or appointed to succeed them, and commissioned accordingly; or the several organizations or any of them to which they belong may then by a vote of the majority of the members thereof, forwarded to the Adjutant-General, be mustered out: *Provided*, That the commanding officer of a battalion or regiment, with the approval of the Commander-in-Chief, may at any time hereafter reorganize his staff, and the members thereof, who are relieved, if detailed from a company, battalion or regiment, shall then report to their com-

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manding officers for duty; otherwise they shall report to the Adjutant-General, who will enter their names and rank in the line upon a list, to be kept in his office, designated the "supernumerary list," and they shall thereafter be subject to the orders of the Commander-in-Chief until the expiration of their respective terms of service.

SEC. 70. Any violation of any of the foregoing rules and regulations on the part of any officer or enlisted man of the National Guard, shall subject the offender to a court-martial and punishment, by such sentence as the court-martial is hereby authorized to inflict.

SEC. 71. It shall be unlawful for any combination of men to meet for military instruction or drill, and assume to be and represent themselves as militia, independent of the National Guard; and the Governor shall disband and disperse any such combination or organization and prohibit the same from assembling. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction shall be punished by imprisonment in the jail of the county in which the offense is committed for a period of not less than three months, nor more than six months. But this section shall not apply to any academy or college, or to the students thereof wherein and to whom military instruction is given.

SEC. 72. The superintendent of any academy or college under whose supervision or instruction a company equal in numbers to a company of the National Guard of students or cadets may receive military instruction, may apply to the Governor to have the officers thereof for the time being commissioned as other similar officers of the National Guard are, and to have such company or companies of students or cadets attached to the National Guard, to be assigned thereto as the Governor shall direct. The officers and men of such company or companies may be armed and equipped as other similar organizations of the National Guard; such company or companies shall for all other purposes be deemed parts of the National Guard, and entitled to the same privileges and allowance, and subject when in active service to the same penalties: *Provided*, That before any military stores of any kind are issued for the use of such company or companies a bond for the return of the same shall be executed by the superintendent of such academy or college, with good and sufficient sureties to be approved by the Adjutant General. Such company or companies shall be styled "cadets" while serving in the National Guard. They shall not be subject to court-martial, except when in actual service, but at all other times shall be amendable only to the rules and regulations of such academy or college.

SEC. 73. All acts and parts of acts inconsistent with this act are hereby repealed.

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SEC. 74. This act shall take effect and be in force from and after its passage.

Approved, March 12, 1889.

## PAPER AND IRON MANUFACTORIES.

AN ACT to encourage the establishment of a paper mill and the manufacture of paper.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. The first paper mill for the manufacture of the different grades of paper, also the first blast furnace for the manufacture of pig iron with puddling furnace, rolling mill and nail mill attached shall be exempt from taxation for a period of six years from the date of completion and active operation; said mills and manufactories shall be deemed completed when the first production of said manufactories are produced.

SEC. 2. The term paper mill or blast furnace, puddling furnace and rolling mill used in this chapter is hereby defined to include and embrace the building or buildings and land connected therewith, together with all the machinery used in or about the same or in anywise connected therewith, and all water right, ditches, flumes, reservoirs and all stock on hand unsold whether the same be raw or manufactured.

SEC. 3. That any person or persons, corporation or company filing with the Auditor of Montana the first notice of their intentions to erect and operate a paper mill or blast furnace, puddling furnace and rolling mill for the purpose of manufacturing paper, bar iron, nails or steel rails within two years from the date of filing such notice, shall have the time of three months from the date of filing the notice aforesaid, to complete arrangements and to obtain the necessary machinery for the erection of said manufactory and at or before the expiration of the said three months, said person or persons, corporation or company, shall commence the erection of said paper manufactory and shall prosecute the same with due diligence until the same be completed.

SEC. 4 Any person or persons corporation or company, that shall first file the notice as provided in section three of this act, and shall proceed to erect and complete said paper mill, blast furnace, puddling furnace and rolling mill in manner as provided for in this chapter, shall have the effect to give preference to such person or persons, corporation or company under this chapter, the term of six months after the date of filing aforesaid notice.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved, March 14, 1889.

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## PAWN BROKERS AND JUNK DEALERS.

AN ACT to regulate the business of pawn brokers and junk dealers.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. No person shall carry on the business of pawn broker or junk dealer by receiving goods pawned or in pledge at any rate of interest above three per cent. per month without first obtaining a license: *Provided*, That there shall be no other or greater amount received by said pawn broker or junk dealer, his employes or agents, for receiving or caring for articles pledged, than the rate of interest allowed by this act.

SEC. 2. Whenever any person shall make oath before a probate judge, police judge or any justice of the peace, that any property belonging to him has been embezzled or taken without his consent, and that he has reason to believe or suspect, and does suspect, that such property has been pledged with any pawn broker or junk dealer, such judge, or justice of the peace, if satisfied with the correctness of such suspicion, shall issue his warrant to search for the property so taken, and if found to seize and bring the same before any of said officers, authorized and empowered to issue said warrant.

SEC. 3. The sheriff, deputy sheriff, or any constable, or city marshal, to whom said warrant shall be directed and delivered, shall execute the same and proceed in the same manner as in case of search warrant issued upon a charge of larceny, embezzlement (or in the same manner as provided in chapter eighteen of third division of compiled statutes).

SEC. 4. Upon any property so seized by virtue of such warrant being brought before the magistrate who issued the same, he shall cause such property to be delivered to the person so claiming to be the owner thereof, on whose application the warrant was issued, on his executing a bond as hereinafter directed; and if such bond be not executed within forty-eight hours, such magistrate shall cause the said property to be delivered to the person from whose possession it was taken.

SEC. 5. Such bond shall be in a penal sum equal to double the value of the property claimed, with such surety as the magistrate shall approve to the person from whose possession the property was taken, with a condition that the person so claiming the same will on demand pay all damage that shall be recovered against him in any suit to be brought within twenty days from the date of such bond, by the pawn broker or junk dealer from whose possession the said property was taken.

SEC. 6. Every pawn broker or junk dealer shall keep a book upon which shall be entered in the usual form of bookkeeping, a description of every article pawned to him or purchased by him,

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with the date of the pawning or purchasing, date when article shall be redeemed, with the name of the person by whom the same was pawned, or by whom purchased, and the amount loaned thereon or paid therefor; and in case of the sale of any article pawned or pledged, the pawn broker or junk dealer shall enter upon said book the name of the purchaser, the time of sale, the price paid therefor, and said book shall always be open to the inspection and examination of any sheriff, deputy sheriff, constable or city marshal, or persons from whom property has been taken by larceny or embezzlement, or any other unlawful means. And any pawn broker or junk dealer who shall neglect or refuse to keep a book or books, as by this section required, or shall make or permit others to make any false entries in such book, or who shall refuse to exhibit the same on demand to any sheriff, deputy sheriff, constable, or city marshal, or to any person from whom property has been taken by larceny or embezzlement, or any other unlawful means, is guilty of a misdemeanor, and on conviction thereof, shall be punished by imprisonment in the county jail not exceeding ninety days, or by a fine not exceeding $200.

SEC. 7. Any person who carries on said business of pawn broker or junk dealer by receiving goods in pledge for loans at a rate of interest above that allowed by section one of this act, is guilty of a misdemeanor and shall be punished by a fine not less than ten dollars nor more than two hundred dollars, or imprisonment in the county jail not less than ten days or more than ninety days.

SEC. 8. Any pawn broker or junk dealer who sells any article or goods received by him in pledge before the expiration of thirty days given to redeem the same or who refuses to disclose to any officer or individual authorized by this act to examine said books, the correct name of the person who pledged the same, or the correct name of the purchaser thereof, the price received by him or the price paid by the purcaser, is guilty of misdemeanor and shall be punished by a fine not less than ten dollars nor more than one hundred dollars or imprisonment in the county jail not less than five days nor more than thirty days.

SEC. 9. All acts and parts of acts conflicting herewith are hereby repealed.

SEC. 10. This act shall be in force and take effect from and after its passage.

Approved March 14th, 1889.

## PRIVATE SECRETARY TO THE GOVERNOR.

AN ACT to provide for the appointment of a private secretary to the Governor.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That the Governor of Montana is hereby authorized to appoint a private secretary who shall hold his office until his re-

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moval by the Governor, and who shall receive an annual salary of twelve hundred dollars, payable as other salaries are paid.

SEC. 2. The secretary shall perform such duties as may be required of him by the Governor.

SEC. 3. This act shall take effect and be in force from and after January 1, 1889.

Approved March 13, 1889.

## POOR.

AN ACT to amend sections one thousand six hundred and thirteen, one thousand six hundred and fourteen and one thousand six hundred and fifteen, fifth division general laws.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That the word "September" in section one thousand six hundred and thirteen, fifth division general laws, be stricken out and the word "December" be substituted in lieu thereof.

SEC. 2. That the word "December" in sections one thousand six hundred and fourteen and one thousand six hundred and fifteen of said division be stricken out and the word "March" inserted in lieu thereof.

SEC. 3. This act shall take effect immediately.

Approved March 14, 1889.

## POLICE MAGISTRATE.

A BILL for an act relating to the office of police magistrate in incorporated towns and cities.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. In case of the absence or disability of the police magistrate of any incorporated town or city, the mayor of such town or city shall designate in writing a justice of the peace of the county within which such town or city is situated to perform the duties of such police magistrate; and the justice of the peace so designated shall thereupon have jurisdiction to try and determine all actions arising under the ordinances of such town or city during the absence or disability of such police magistrate.

SEC. 2. A justice of the peace designated to perform the duties of police magistrate in accordance with the provisions of section one of this act shall receive in full compensation for such services such amount as the city council may allow, not to exceed the sum of five dollars for each day that he shall actually perform such duties.

SEC. 3. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Approved, February 13, 1889.

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SCHOOL BONDS.

AN ACT to amend section 1950 of the fifth division of the compiled statutes of Montana, concerning school bonds.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section nineteen hundred and fifty be and the same is hereby amended so as to read as follows: Section nineteen hundred and fifty—The board of school trustees of any school district within Montana shall, whenever a majority of the trustees so decide, submit to the electors of the district the question whether the board shall be authorized to issue coupon bonds to a certain amount, not to exceed four per cent. of the taxable property in said district, and bearing a certain rate of interest not exceeding seven per centum per annum, and payable and redeemable at a certain time, for the purpose of building one or more school houses in said districts and purchasing land necessary for the same. Should the trustees of any school district in which bonds have been heretofore issued to any amount, desire to submit to the electors of the district the question as to whether additional bonds shall be issued, they may do so, but no such bonds shall be issued unless a majority of all the votes cast at any such election shall be cast in favor of such issue of additional bonds, and in no case shall the whole issue of bonds exceed in amount four per centum of the taxable property within said school district. This section shall not be so construed as to authorize any board of school trustees to submit such question of issuing bonds to a vote of the electors of the district while there is outstanding and unredeemed or unpaid two sets or issues of bonds, issued under the provisions of this act, nor shall any additional bonds, other than the two issues herein provided for, be uttered by said district until such time as one at least of the prior issue of bonds has been called in and fully paid.

This act shall not apply to an act entitled "An act to authorize the school trustees of the school district number one, of Deer Lodge county, to issue additional bonds for certain purposes," approved February thirteenth, 1885.

Approved, March 14, 1889.

SCHOOL TEXT BOOKS.

AN ACT to amend an act entitled an act to establish a series of text books for the public schools.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. The text books in the several branches required by law to be taught in the public schools of Montana shall be uniform throughout Montana.

SEC. 2. That the text books hereinafter named are hereby adopted for exclusive use in the public schools of Montana, so far as the same may be applicable to the grade of study pursued in the



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schools where used for the term of six years, from the first day of July, A. D. eighteen hundred and eighty-nine, or until changed in pursuance of law: *Provided*, That the books now in use in any school or schools may be retained for the period of one year from said date, should it be in the opinion of the teacher of said school or schools expedient so do to: *And provided further*, that this section shall take effect only when the publishers of the book hereby adopted shall have filed with the territorial secretary their bonds with at least two sufficient sureties, to be approved by the governor, in the penal sum of ten thousand dollars for each publishing house, conditioned that they shall, for the period of this adoption, keep the said books and each of them for sale at the points in Montana hereinafter named, at the lowest wholesale rates in the city of New York, N. Y.; Chicago, Ills.; Cincinnati, Ohio, to all responsible merchants in Montana, or to school trustees desiring to purchase the same from time to time, in such quantities as may be requisite to supply their schools; that the said books and each of them shall be sold at retail for the period for which they are adopted, at not to exceed the prices hereinafter named, set opposite the titles of said books in the column headed "Retail;" that in case the current wholesale prices shall ever hereafter be reduced, then all the merchants and all school trustees desiring to purchase books for the supply of their schools shall have the benefit of such reduction, and a corresponding reduction shall be forthwith made in the retail prices guaranteed to the people of Montana; that for the period of one year from the first day of July, Anno Domini eighteen hundred and eighty-nine, they will cause the said books to be sold at retail in at least one town in each county in Montana, and on application of any school officer they will forward the same by mail or express, freight or postage prepaid, at the prices hereinafter named, set opposite the name of said books in the column headed "Introduction;" that they will, for a period of twelve months from the said first day of July, Anno Domini eighteen hunnred and eighty-nine, in at least one town in each county of Montana, exchange copies of the books hereby adopted, grade for grade, for the old books of other series now in the hands of pupils upon the payment in cash at the time of surrendering the old books, of the price hereinafter set opposite the names of said books in the column headed "Exchange;" that they will prepare for Barnes' complete geography, a special map of Montana, covering two pages, from the latest compilation, engraved in the best style, and at least six pages of special descriptive geography of Montana, and will cause the same to be included in all copies of said geography supplied by them to the people of Montana; that they shall maintain the mechanical excellence of said books at least equal to their present standard, in respect to binding, printing, quality of paper and all other essensial features; and that those sold to the people of Montana shall always be of the latest revised edition: *And provided*

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*further*, That the map and special descriptive geography of Montana shall be revised every three years by the publishers.

SEC. 3. In case the publishers of the books hereby adopted shall not, on or before the first day of July A. D., eighteen hundred and eighty-nine, file with the secretary their bonds as hereinbefore provided, or in case they shall not, on or before the first day of July, eighteen hundred and ninety have performed all the obligations of their bond, in respect to the introduction and exchange of books, and the preparation and supply of the special map and geography of Montana for Barnes' complete geography, or in case they shall at any time thereafter violate or fail to perform any of the conditions specified in their bonds as hereinbefore provided, and shall fail, within a reasonable time after due notice mailed to them by the territorial surperintendent of public instruction, to make good their guarantee in any respect in which they may have failed, then this adoption shall become null and void, and the series of text-books now in use in the schools shall remain the legal text-books until changed by law; and the said books hereby adopted, upon compliance with the conditions aforesaid, shall be continued in use until otherwise provided by statute. It shall be the duty of the Attorney General to proceed by suit in the name of Montana to enforce and collect the bond of the publishers so failing for the benefit of the common schools of Montana.

SEC. 4. The following are the titles of the text-books adopted by this act, with the introductory and exchange prices which the publishers shall be bound to maintain as hereinbefore provided, to-wit: The introductory prices for one year from and after the first day of July, A. D. eighteen hundred and eighty-nine, and the exchange prices from the first day of July, eighteen hundred and eighty-nine, to the first day of July, eighteen hundred and ninety, and the retail prices which they shall be bound to maintain thereafter.

| | Retail price. | Introduction price. | Exchange price. |
|---|---|---|---|
| McGuffey's Revised Electric First Reader | $ 20 | $ 17 | $ 10 |
| McGuffey's Revised Electric Second Reader | 35 | 30 | 18 |
| McGuffey's Revised Electric Third Reader | 50 | 42 | 25 |
| McGuffey's Revised Electric Fourth Reader | 60 | 50 | 30 |
| McGuffey's Revised Electric Fifth Reader | 85 | 72 | 45 |
| Swinton's Word Book | 25 | 18 | 10 |
| Fish Arithmetic No. One | 35 | 30 | 15 |
| Fish Arithmetic No. Two | 70 | 60 | 30 |
| Barnes' Elementary Geography | 75 | 35 | 25 |
| Barnes' Complete Geography | 1 35 | 80 | 60 |
| Barnes' Short Studies in English, part first | 35 | 30 | 15 |
| Barnes' Short Studies in English, part second | 45 | 40 | 25 |
| Harvey's Revised English Grammar | 80 | 65 | 40 |
| Barnes' Brief History, United States | 1 20 | 80 | 60 |
| Barnes' Primary History, United States | 70 | 60 | 30 |

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| | Retail price. | Introduction price. | Exchange price. |
|---|---|---|---|
| Child's Health Primer | $ 35 | $ 30 | $ 15 |
| Physiology for young people | 60 | 50 | 30 |
| Steele's Hygienic Physiology | 1 20 | 1 00 | 65 |
| Spencerian Copy Books (Common School Series) | 10 | 8 | ..... |
| Spencerian Copy Books (Short Course and Tracing) | 8 | 6 | ..... |
| Electric Complete Bookkeeping | 65 | 50 | ..... |
| Electric Bookkeeping Blanks per set | 60 | 45 | ..... |
| Lovell's Graphic Drawing Books | 15 | 10 | ..... |
| Lovell's Civics for young people | 50 | 40 | ..... |

SEC. 5. Whenever the publishers of the books hereby adopted shall have filed their bond, as hereinbefore provided, it shall be the duty of the territorial superintendent of public instruction to cause all prices of the text books as guaranteed by the publishers to be properly printed and distributed, through the county superintendents, to the trustees of the several school districts, who shall cause the same to be kept constantly posted in a conspicuous place in each school room in their districts, and it shall be the duty of the several county superintendents to keep themselves informed as to whether such prices are actually maintained by the said publishers; and in case of failure to at once notify the territorial superintendent who shall then proceed as hereinbefore provided.

SEC. 6. Any school district which shall after the first day of July, eighteen hundred and ninety, use other text books than those herein adopted for the same studies, shall forfeit twenty-five per centum of the county school fund to be apportioned among the other school districts of the county which shall have complied with this chapter.

SEC. 7. All school officers and teachers are charged with the execution of this law, and the county school superintendent shall require the trustees of the several school districts, or the clerks thereof, to report annually whether the authorized text books are used in their schools.

SEC. 8. Whenever in the opinion of the county superintendent of public schools, it will not be expedient to affect the exchange of books in districts distant from the county seat through the medium of the dealers, for the reason that said dealer shall refuse to act as the agent between the publishers and the schools, or because said dealer has charged more than the retail or exchange prices specified in this bill, or whenever the trustees of any school district shall request the superintendent to make the exchange or purchase in the respective counties, he may make a written request of the publishers of said books, stating therein the number of books of each kind necessary for him to have in order to introduce the same, that they send him by freight, or otherwise,

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the books necessary in order to effect the complete change. Upon the receipt of the books by the county superintendent, it shall be his duty to introduce the same into all schools within his jurisdiction, making the exchange in the manner herein provided for collecting the money for all books distributed by him, and when the exchange is complete, and within a reasonable time thereafter, he shall report to the said publishers and make a remittance to them of all money in his hands, arising from sales and exchanges made by him, and shall also make a statement of what books remain in his hands, and dispose of the same in the manner directed by said publishers: *Provided*, That said county superintendents shall be held accountable and responsible for the books and money so received by him on his official bond.

SEC. 9. All acts and parts of acts in conflict with the provisions of this act be and the same are hereby repealed.

SEC. 10. This act shall take effect and be in force from and after its passage.

Approved, March 5, 1889.

## SHEEP—DISEASES.

AN ACT to provide for the appointment of deputy veterinary surgeons, and to suppress and prevent dissemination of scab and contagious diseases among sheep.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. The territorial veterinary surgeon, upon the request of the president or secretary of any organized wool growers' association in any county in Montana, or of any three sheep owners in any county therein, shall appoint a capable and discreet person as deputy inspector in such county, who shall hold his office during the pleasure of such veterinary surgeon, and shall perform such duties as are hereinafter prescribed.

SEC. 2. Such deputy shall be a resident of the county for which he shall be appointed. He shall, before entering upon the duties of his office, take the oath prescribed by section one thousand and sixty-seven, fifth division general laws of Montana.

SEC. 3. It shall be the duty of each deputy inspector so appointed to inspect all sheep within his county of which he may receive notice as provided in section four of this act, and in case the same be not diseased, he shall make and issue a certificate stating such fact. But if the sheep are diseased, or have been herded upon the range or in corrals which have within the past ninety days been used or occupied by any diseased or infected sheep, the regulations for their quarantine, holding and keeping shall at once be made by such deputy. Each deputy inspector so appointed shall personally supervise the dipping of every band of scabby sheep within his county, and have the appointing of the date for each and

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every dipping; he shall have the right to determine and superintend the proportion and mixture of materials, and shall cause all sheep quarantined to be distinctly marked.

Sec. 4. Upon receipt of reliable information in writing that any sheep in his county are infected with scab, or any infectious disease, or have recently been herded upon the range of, or occupied corrals which have within the past ninety days been used or occupied by any diseased or infected sheep, such deputy inspector shall immediately cause the diseased sheep, and all sheep running in the same flock with them, to be examined, and if found so diseased, to be quarantined and held within a certain limit or place, to be defined by him, and such sheep shall be held in quarantine until the owner or person in charge, shall have eradicated such scab or infectious disease effectually. The expense of feeding, holding, dipping, marking and taking care of all sheep quarantined under the provisions of this act, shall be paid by the owner, agent or person in charge of such sheep.

SEC. 5. Whenever the governor shall, by proclamation, quarantine for inspection, as provided, may be done in the next section, any sheep brought into Montana, it shall then be the duty of the deputy inspector of the county in which such sheep may come, to immediately inspect the same, and if he shall find that they are infected with scab, or any other infectious disease, he shall cause the same to be held within a certain limit or place in his said county, to be defined by him, until such disease shall have been eradicated, as provided in section four of this act.

SEC. 6. Whenever the governor of the territory shall have good reason to believe that any disease covered by this act has become epidemic in certain locations in any other state or territory, or that conditions exist that render sheep liable to convey disease, he shall thereupon, by proclamation, schedule such localities and prohibit the importation from them of any sheep into this territory, except under such restrictions as he, after consultation with the veterinary surgeon, may deem proper. Any corporation, person or persons who, after publication of such proclamation shall knowingly receive in charge any such sheep from any of the said prohibited districts and transport or convey the same within the limits of any of the counties of this territory, shall be deemed guilty of a misdemeanor, and, upon conviction, be fined not less than five hundred dollars nor more than one thousand dollars for each and every offense; and shall further become liable for any and all damages and loss that may be sustained by any person or persons by reason of the importation or transportation of such prohibited sheep.

SEC. 7. Upon issuing of such proclamation mention in section six of this act it is hereby made the duty of the owners or persons in charge of any sheep being shipped into Montana against which quarantine has been declared, to notify the deputy inspector of the

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county in which such sheep shall first come, without delay, of such arrival, and such owner or person in charge shall not allow any sheep so quarantined to pass over or upon any public highway, or upon the ranges occupied by other sheep, or within five miles of any corral in which sheep are regularly corralled until such sheep shall have first been inspected, and any person failing to comply with the provisions of this section shall be deemed guilty of a misdemeaner, and upon conviction thereof, shall be fined in a sum not less than two hundred and fifty dollars nor more than one thousand dollars, and shall be liable in damages for any loss sustained by any person by reason of the failure to comply with the provisions of this section.

SEC. 8. In no case shall any scabby sheep be allowed to be removed from any one point to another within any of said counties, or from one county to another, or any sheep that have within one year been scabby, without a written certificate from the said sheep inspector, provided such sheep may be transferred and removed with the written consent of all sheep owners or managers along the route and in the vicinity of the proposed location, except those mentioned in the preceding section. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than two hundred and fifty dollars, nor more than one thousand dollars for each and every offense.

SEC. 9. Upon the arrival of any flock of sheep into this territory or into any county of this territory from any other country, state, or territory, the owner or agent in charge shall immediately report them to the Deputy Inspector of the county in which such sheep shall first come for inspection, and such deputy shall immediately inspect the same. And in case of failure from any cause of the owner or agents to report for inspection, such person so offending shall, upon conviction thereof, be fined in any sum not less than two hundred and fifty dollars nor more than one thousand dollars. The expense of such inspection shall be borne by the owner of the sheep and shall be a lien against any and all such sheep.

SEC. 10. The Deputy Inspector in each county shall receive for his services whilst necessarily employed in inspection, eight dollars per diem, which shall include all traveling expenses of whatever kind or nature incurred in going to or from the places where such inspection or inspections are had: *Provided, however*, That when any deputy veterinary surgeon, appointed under the provisions of section sixty-two, fifth division general laws of Montana, is or may be hereafter permanently located in any county in Montana, it shall be his duty when notified and called upon to perform such duties as are herein imposed upon deputy inspectors, and for services rendered under the provisions of the last preceding section he shall without fail in all cases collect from the owner or agent the same

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fees as are allowed the Deputy Inspector in such cases, but in no other case shall he be allowed to charge or collect from any sheep owner any fees.

SEC. 11. Whenever any deputy inspector shall file in the office of the territorial auditor proper vouchers, duly approved by the Veterinary Surgeon, setting forth:

1st—The name in full of such Deputy Inspector.

2d—The kind and nature of the services rendered.

3d—The particular locality where the work was done.

4th—The time when and the length of time employed.

5th—The number of sheep inspected and the name of the owner or person in charge.

6th—The disease or diseases treated and the number treated for each disease, and the length of time of such treatment and the result.

7th—The amount claimed and the value of such services.

Such auditor shall proceed to audit the same, and if found correct shall draw his warrant in favor of such Deputy Inspector, payable out of any moneys in the "sheep inspectors' and indemnity fund" of the territory.

SEC. 12. Every deputy appointed under the provisions of this act shall keep a book, to be known as the "Inspection Record," in which he shall enter and record all his official acts and proceedings. Such record shall particularly show the name of the owner of every flock of sheep inspected, when the same was inspected, and the number in each flock, the result of such inspection, the names of persons to whom certificates have been granted and when, and all orders and directions made in relation to any matters herein designated.

SEC. 13. Any person who shall fail to comply with or shall disregard any order or directions made by any deputy inspector under the provisions of this act, shall upon conviction be fined in any sum not less than one hundred nor more than five hundred dollars.

SEC. 14. It shall be unlawful for any person or persons to bring into Montana territory from without such territory any sheep infected with the scab or any other contagious disease. Every person offending shall upon conviction thereof be fined in any sum not less than one hundred dollars nor more than five hundred dollars, or imprisoned in the county jail not less than one month nor more than three months, or both such fine and imprisonment at the discretion of the court.

SEC. 15. No property shall be exempt from sale under execution issued upon any judgment obtained under any of the provisions of this act.

SEC. 16. Whenever in the opinion of the veterinary surgeon it shall be necessary to have more than one deputy inspector in a county, he shall immediately make the appointment and define as

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near as may be the particular portion of the county in which such deputy shall perform his duties, and any deputy appointed under the provisions of this act who shall under and by virtue of the powers conferred upon him by reason of such appointment, oppress, wrong, or injure any person or persons, shall upon conviction be fined in any sum not less than one hundred dollars nor more than five hundred dollars.

SEC. 17. Section two, three and six of an act entitled "an act to suppress and prevent scab, and infectious diseases among sheep," approved September fourteen, eighteen hundred and eighty-seven, and sections sixty-seven, sixty-eight and sixty-nine, of chapter four, fifth division general laws, are hereby repealed, and all other acts or parts of acts amendatory thereof, and supplemental thereto, which are in conflict with the provisions of this act are hereby modified to conform with the provisions of this act: *Provided, however*, That nothing in this act shall be construed so as to prevent any officer from fully performing the duties required of him or them under the provisions of the unrepealed sections of the acts last above referred to.

SEC. 18. This act shall take effect and be in force from and after its passage.

Approved March 14, 1889.

## STENOGRAPHERS—DISTRICT COURTS.

AN ACT to amend Section Four of an act entitled an Act concerning the appointment of Stenographers by the District Courts. Approved September 14th, 1887.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section four of an act entitled "An act concerning the appointment of stenographers by the District Courts," approved September 14th, 1887, be amended so as to read as follows: Section four.—Every stenographer appointed under the provisions of this act shall receive an annual salary of eighteen hundred dollars, and no other compensation except as hereinafter provided, payable in quarterly installments out of the contingent fundsof the counties comprising the district for which he is appointed, according and in proportion to the number of suits entered and commenced in the District Courts of such counties respectively the preceding year; and it shall be the duty of the judge of such district, on the first of January of each year, or as soon thereafter as may be, to apportion the amount of such salary to be paid by each county in his district on the basis aforesaid. The stenographer shall be allowed, in addition to the salary above provided, five cents per folio for each copy of testimony furnished to parties in civil cases, to be paid for by the parties desiring the same.

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SEC. 2. This act shall take effect from and after its passage and approval by the Governor.

Approved, March 13, 1889.

## SUPREME COURT REPORTS.

AN ACT to amend sections one thousand nine hundred and ninety three and one thousand nine hundred and ninety-five of the fifth division general laws of the Compiled Statutes of Montana, relating to the reports of the supreme court of Montana.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section one thousand nine hundred and ninety-three of the fifth division general laws of the Compiled Statutes of the territory of Montana is amended to read as follows: Section one thousand nine hundred and ninety-three—The reporter of such volume shall print and bind three hundred copies of such edition at the expense of the territory: *Provided*, That the same shall be paid for at the rate of six dollars for each volume of six hundred pages, and that each volume of more than six hundred pages shall be paid for at the same rate for the number of pages exceeding six hundred, and upon the said reporters delivering to the librarian of the Montana library three hundred copies of such edition, the auditor of the territory shall issue to the said reporter a warrant for the amount to be found due, as provided above and also a warrant for the sum of three hundred dollars to cover the expenses of stationery and clerical work in the preparation of each volume: *Provided*, That the whole expense of publication and preparation of a full volume of such reports shall not exceed the sum of two thousand one hundred dollars to the territory.

SEC. 2. That section one thousand nine hundred and ninety-five of the fifth division general laws of the Compiled Statutes of the territory of Montana is amended to read as follows: Section one thousand nine hundred and ninety-five—Of the three hundred copies deposited with the librarian of the Montana library, as above provided, the following officers shall be entitled to one copy of such volume, to-wit: The Governor, Secretary, Territorial Auditor, Territorial Treasurer, Territorial Superintendent of Public Instruction, the several Judges of the Supreme Court, the Attorney General, the several County Attorneys, and the Judges of Probate of the several counties. A sufficient number shall be sent to the libraries of the different states and territories and as exchanges to the several states and territories of the Union by the said librarian, and the remainder shall be deposited in the Montana library.

SEC. 3. All laws and parts of laws in conflict with this law be and the same are hereby repealed.

SEC. 4. This act shall take effect from and after its passage.

Approved, March 8, 1889.

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## TAXATION.

AN ACT to amend an act entitled and act to provide for the levy of taxes and assessment of property, approved September 14th, 1887.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section three of said act be, and the same is hereby amended as to read as follows:

SEC. 3. All real and personal property in the territory (or state) of Montana, except such as is in this section expressly exempt from taxation, shall be listed and assessed with reference to its value and location, on the first day of April preceding the assessment: *Provided*, That the provisions of this section shall be construed to apply to all taxable personal property within the exterior limits of the territory (or state), including all property situated upon Indian and military reservations: *And provided further*, That the owner of personal property, removing from one county, town, district to another, between the first day of April and the first day of September, shall be assessed in either county in which he is first called upon by the assessor. The owner of personal property moving into this territory (or state) from another territory (or state) between the first day of April and the first day of September, shall list the property owned by him on the first day of April of each year, in the county, town or district in which he resides: *Provided*, If such person has been assessed, and can make it appear to the assessor that he is held for the tax of the current year on the same property in another state or territory, county, town or district, he shall not again be assessed for such year. When the owner of live stock or other personal property connected with a ranch or farm, does not reside thereon, the same shall be listed and assessed in the county, town, or district where the ranch or farm is situated: *Provided*, If the farm is situated in several towns or districts, it shall be listed and assessed in the town or district in which the principal place of business of such ranch or farm is situated. The following described property shall be exempted from taxation, viz:

First—All lands and lots of ground with buildings, improvements and structures thereon belonging to the territory, and all lands and property belonging to the United States, or to this territory or to any municipal corporation, or to any county of the territory.

Second—Court houses, jails, town halls, houses occupied by fire and military companies and their apparatus, and other public structures and offices, and all squares and lots kept open for health or public uses, or for ornament, belonging to any county, city, town or village in this territory. Public libraries, colleges, school houses and other buildings for the purpose of education, with their furnature, libraries and all other equipments, and lots of land thereto appurtenant and used therewith, so long as the same shall be used for that purpose: *Provided*, That when any of the property mentioned

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in this subdivision, is private property, from which a rent or other valuable consideration is received for its uses, the same shall be taxed as other property.

Third—Public asylums, hospitals, poor houses and other charitable or benevolent institutions for the relief of the indigent or afflicted, and the lots, or lands thereto appurtenant, with all their furniture and equipments. All grounds and buildings belonging to agricultural societies, so long as the same shall be used for that purpose only, and without pecuniary gain.

Fourth—Churches, chapels and equipments, and the lots of ground appurtenant thereto and therewith, not exceeding in value ten thousand dollars: *Provided*, rent is not paid for such grounds so long as the same is used for that purpose only without yielding rent. Cemeteries and graveyards set apart and used for interring the dead.

Fifth—The property of widows or orphan children, not to exceed the amount of one thousand dollars to any one family.

Sixth—Growing crops.

Seventh—Mines and mining claims, except those held under a patent from the United States, the surface of which shall be taxed according to its value, as other real estate: *Provided*, That all machinery used in mining claims and all property and improvements appurtenant to or upon mining claims which have an independent and separate value shall be subject to taxation. Tools of mechanics, farming tools of husbandmen, all libraries of professional men and private citizens, household furniture of families or householders, which does not exceed in value the sum of two hundred and fifty dollars; and hay and feed sufficient to feed work teams and three cows for the period of six months, and seed grain sufficient to seed one hundred and sixty acres of land, the amounts hereof to be determined by the assessor; also fuel for home use, be and the same are hereby exempt from taxation.

SEC. 2. That section five of said act be and the same is hereby amended so as to read as follows: Section five—All personal property shall be listed in the manner following:

First—Every person of full age and mind being a resident of this territory (or state) shall list all his or her moneys, credits, bonds or stock, shares of stock of joint or other companies (when the property of such company is not otherwise listed or assessed in this territory—(or state), moneys loaned or invested, annuities, franchises, realties and other personal property.

Second—He or she shall also list separately and in the name of his or her principal, all moneys and other personal property invested, loaned or otherwise controlled by him or her as the agent or attorney, or on account of any other person or persons, company or corporation whatsoever, and all moneys deposited subject to his or her order, check, or draft, and credits due from or owing by any person or persons, body corporate or politic.

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Third—The property of a minor child shall be listed by his or her guardian, or by the person having such property in charge.

Fourth—The property of an idiot or lunatic, by the person having charge of such property.

Fifth—The separate property of a wife by herself, or by her husband, or by the person in charge of such property.

Sixth—The property of a person for whose benefit it is held in trust by the trustee of the estate of a deceased person by the executor or administrator.

Seventh—The property of corporations whose assets are in the hands of a receiver, by such receiver.

Eighth—The property of a body politic or corporate, by the president or proper agent or official thereof.

Ninth—The property of a firm or company by a partner or agent thereof.

Tenth—The property of manufacturers, and others in the hands of an agent, by such agent in the name of his principal.

SEC. 3. That section six be and the same is hereby amended so as to read as follows: Section six—Personal property, except such as is required in this act to be listed and assessed otherwise, shall be listed and assessed in the county, town or district where the property is situated. The capital stock and franchises of corporations and persons, except as may be otherwise provided, shall be listed and taxed in the county, town or district where the principal office or place of business of such corporation or person is located in the territory; if there be no principal office or place of business in the teritory, then at the place in the territory where any such corporation or person transacts business. The personal property pertaining to the business of a merchant or of a manufacturer shall be listed in the town or district where his business is carried on. The personal property of express, transportation and stage companies shall be listed and assessed in the county, town or district where the same is usually kept. All persons, companies and corporations in this territory owning steamboats, sailing vessels, wharf-boats, barges and other water craft shall be required to list the same for assessment and taxation in the county, town or district in which the same may belong or is usually kept. The personal property of gas and water companies shall be listed and assessed in the county, town or district where the principal works are located. Gas and water mains and pipes, laid in roads, streets or alleys, shall be held to be personal property. The personal property of street railroad, plank- road, gravel-road, turnpike or bridge companies shall be listed and assessed in the county, town or district where the same or any portion thereof are located, and the track, road or bridge shall be held to be personal property. The property of corporations or companies constructing or owning railways, telegraph and telephone lines and similar improvements, shall be assessed to each corporation or company, and their interests are to be taxed in this

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territory in the county in which such railway, telegraph line, telephone line or similar improvement is located, and to the extent of such improvements as may be found in each county, and to this end the assessor is directed to require the secretary or clerk, or other proper officer or agent, of such corporation or company within the county to render, under oath, a list of the number of miles and value of such improvements as may be in each separate county through which the same may be constructed, or in which the same may be situated: *And provided*, That in case the secretary, clerk or other proper officer shall fail, refuse or neglect to furnish to the assessor such list under oath, it shall be the duty of the assessor to list such property and value the same according to his best judgment and information, and add twenty per cent. thereto on account of such failure, refusal or neglect: *And provided further*, That if the assessor shall be of the opinion that any person making a list or statement has omitted any property that should have been embraced therein, the assessor may make a separate list and assessment of the property so omitted, but shall in no case add such omitted property to the list returned by the person making the same.

SEC. 4. That section fourteen of said act be and the same is hereby amended so as to read as follows:

SEC. 14. Every person required by this act to list property shall make out and deliver to the assessor, when required, a statement, verified by his oath, of all the real and personal property in his possession or under his control, and which, by the provisions of this act, he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, agent or factor; but no person shall be required to include in his statement any share or portion of the capital stock or property of any company or corporation with such company is required to list, or return as its capital and property for taxation in this territory (or state): *Provided*, That upon all personal property when the owner has not sufficient real property which is not exempt from taxation, out of which his entire tax could be collected, the assessor shall report his assessment on such personal property forthwith to the treasurer of the county, and if there be danger that any of such property will be removed from the county, the assessor shall have power and it shall be his duty, to seize a sufficient amount of the property to pay the taxes and costs. He shall forthwith report such seizure to the treasurer of the county and shall cause the property so seized to be held until such taxes are paid, or the property sold by the treasurer. It shall be the duty of the treasurer, immediately on the receipt of the assessment against any personal property mentioned in this section, to levy the tax thereon, and if such tax be not paid within ten days from the time such assessment was made, he shall proceed to sell the property so

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seized by the assessor, and shall sell the same in the manner provided by law for the sale of personal property on execution.

SEC. 5. That section fifteen of this act be and the same is hereby amended so as to read as follows:

SEC. 15 It shall be the duty of the assessor to determine and fix the true value of all items of property included in such statement, and enter or cause to be entered, the same opposite such items respectively, so that when completed, such statement shall truly and distinctly set forth:

First—The postoffice address of the person listing the property.

Second—The number of acres of land, giving full description, location and the value thereof.

Third—A description of the improvements thereon and the value thereof.

Fourth—The number of town or city lots, giving description and the value thereof.

Fifth—The improvements on such lots, and the value thereof.

Sixth—The number of miles of railroad, telegraph or telephone lines wholly in the county, and the value thereof.

Seventh—The number of depots, station grounds, shops, buildings and gravel beds of railroads in the county.

Eighth—Wagon or turnpike toll roads, value of, in county.

Ninth—Mining, manufacturing or irrigating ditches and the value thereof in the county.

Tenth—Toll bridges or ferries and value thereof.

Eleventh—Toll bridges or ferries connecting with another county, one-half to be assessed in each county.

Twelfth—Mortgages, trust deeds and other obligations upon land to secure debts, giving a full description of each and the amount thereof.

Thirteenth—Gold dust on hand or on deposit, and if on deposit, with whom.

Fourteenth—State, territorial, county, city, municipal or other taxable bonds of any person, firm or corporation.

Fifteenth—Franchises (describe them in detail). The statement shall also show the items of personal property hereinafter mentioned, giving the number or amount and value of such items, viz.: Watches, jewelry or plate, furniture, firearms, musical instruments, sewing machines, libraries (law, medical, and miscellaneous), goods, wares, and merchandise, and of what general kind, pianos, consigned goods, fixtures of stores, saloons, offices and other business places, farming utensils, machinery, wagons and other vehicles, harness, robes, saddles, blankets, etc.; thoroughbred horses, graded horses, American horses, common horses, stallions, thoroughbred cows, graded cows, American cows, common cows, bulls, stock cattle. beef cattle, Angora goats, common goats, imported or fine sheep, graded sheep, common sheep, jackass, jennets, mules, oxen, hogs, butter, cheeses, beehives, wheat, oats, barley, corn, rye, tons

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of hay, pounds of wool, tons of broom corn, pounds of honey, tons of coal, flax, hops, gallons of wines, brandies and other liquors, lumber, wood and other personal property not above mentioned. The lists or statements made by any person shall also show propertyheld in trust, separate property of wife, if her property is listed by her husband, property of minor children, each class of which must be made on a separate list or statement. And such assessment lists shall further show the value of all improvements on lands, the title to which is vested in another than the person so listing it, which improvements are to be considered personal property under the provisions of this act. And when such list is completed the assessor shall attach his certificate thereto, certifying that the person making such list put down the answer to each question propounded in said list, or directed the assessor to do so for him, and shall certify the true date of such assessment.

SEC. 6. That section seventeen of the said act be and the same is hereby amended so as to read as follows: Section seventeen.—It is hereby made the duty of such assessor when the assessment list is completed as in section five of this act provided to administer to the person so assessed the following oath or affirmation to be subscribed by such person; which oath shall be in the following form: Territory of Montana, County of..... I, ....., do solemly swear (or affirm, as the case may be) that I am a resident of the county of....., that the foregoing list contains a full and correct statement of all property subject to taxation, which I or the firm of which I am a member, or any corporation, association or company of which I am president, cashier, secretary or managing agent, owned, claimed, possessed or controlled, at twelve o'clock m. on the first day of April last, and which is not already assessed this year and that I have not in any manner whatsoever transferred or disposed of any property or placed any property out of said county or my possession, for the purposes of avoiding any assessment on the same, or of making this statement, and that the debts therein stated as owing by me are justly due and owing bona fide creditors. Subscribed and sworn to before me this....., day of....., eighteen hundred and eighty-.... Name of taxpayer. Assessor.

SEC. 7. That section twenty-three of said act be and the same is hereby amended so as to read as follows: Section twenty-three.—The county clerk shall make out a tax list in tabular form and in alphabetical order, which tax list shall be made within twenty days after the completion of the correction of the assessment roll by the county commissioners, having in a distinct column by itself the amount of each different tax, and having one or more columns for all delinquent taxes; but instead of a column for the amount of personal property, the word "personal" may be written across the column after the name and amount are carried into the column of value. Such list may be in the following form:

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| Names of Owners. | Part of Section. | Section. | Township. | Range. | Acres. | Name of Town. | Lots. | Block. | Value. | County Tax. | Territorial Tax. | School Tax. | Road Tax. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|

SEC. 8. That section forty-one of the said act be and the same is hereby amended so as to read as follows: Section forty-one.—Real property sold under provisions of this act may be redeemed at any time before the expiration of three years from the date of sale, by the payment to the treasurer of the proper county, to be held by him subject to the order of the purchaser, of the amount for which the same was sold and the subsequent taxes and fifteen per cent. interest per annum on said amount and on subsequent taxes, unless such subsequent taxes have been paid by the person or persons for whose benefit the redemption is made, which fact may be shown by the treasurer's receipt.

SEC. 9. That section twenty-seven of the said act be and the same is hereby amended to read as follows: Section twenty-seven —The Treasurer shall, within twenty days from the time he shall receive the assessment roll from the clerk, direct to each taxpayer of his county, a written or printed notice of the amount of tax due from such taxpayer and the time the same becomes due. Such notice shall be directed to the nearest postoffice to which said taxpayer resides. Printed blanks for said notices and postage stamps for the same shall be furnished said Treasurer by the Board of County Commissioners. No other demand for taxes shall be necessary, but it shall be the duty of every person owing taxes to pay the same to the Treasurer of the county at his office; and if any such taxpayer shall fail or refuse to pay the taxes assessed against him on or before the last day of December following the levy thereof, ten per cent. of such taxes shall be added thereto, and collected as a portion of said taxes, and it shall be the duty of the tax collector immediately after the first day of January to seize any personal property belonging to, or which may have been assessed to any taxpayer who shall then be delinquent, and sell the same as provided by law. But it shall be his duty at any time when there shall appear to be danger of the removal of property on which taxes are unpaid, from the county, to seize and sell a sufficient amount of the same to satisfy the taxes thereon, together with the costs of seizure and sale: *Provided*, That if any taxpayer, against whom any tax may be levied, shall remove or attempt to remove his property from such county where such tax was levied, the Treasurer of the



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county shall sue for and collect such tax in the name of the county in the manner provided by law for the collection of debts.

SEC. 10. That section sixteen of the act entitled an act to provide for the levy of taxes and assessment of property, approved September 14th, 1887, be and the same is hereby repealed.

SEC. 11. This act shall take effect from and after the date of its passage.

Approved, March 14, 1889.

TERRITORIAL OFFICERS—SALARIES.

AN ACT to repeal Section 1595 of the Fifth Division of the Compiled Statutes of Montana, relating to Territorial Officers.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That section 1595 of the fifth division of the compiled statutes of Montana be and the same are hereby repealed.

SEC. 2. This act shall take effect from and after its passage.

Approved March 12, 1889.

TOLL ROADS, BRIDGES AND FERRY BOATS.

AN ACT to add a section to chapter one hundred and two of the Fifth Division Compiled Statutes of Montana relating to toll roads, toll bridges and toll ferry boats.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. There is hereby added to chapter one hundred and two, fifth division compiled statutes of Montana, a section to be numbered 1860 A, which shall read as follows:

Sec. 1860 A. Any person or persons, company or corporation, who shall charge or cause to be charged a greater amount or price than the rate or price made or established by the board of county commissioner of any county in the territory of Montana for any toll road, toll bridge or toll ferry boat, shall be guilty of a misdemeanor, and shall be fined for each and every offense so committed in a sum not less than twenty-five dollars nor more than one hundred dollars.

SEC. 2. This act shall take effect from and after March 31st, 1889.

Approved March 13, 1889.

TOWN SITES.

AN ACT to amend Sections 2031, 2032, 2033, 2034, 2037 and 2038 of the Fifth Division of the Compiled Statutes of Montana, relating to Town and Village Sites and Plats.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That sections twenty hundred and thirty-one, twenty hundred and thirty-two, twenty hundred and thirty-three, twenty

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hundred and thirty-four, twenty hundred and thirty-seven, twenty hundred and thirty-eight of the fifth division of the compiled statutes of Montana be amended so as to read as follows:

Section twenty hundred and thirty-one—Whenever any city, town or village shall be laid out the proprietor or proprietors of the city, town or village or additions laid out shall cause to be made an accurate plat or map thereof, setting forth: First, all streets, alleys, avenues and highways, and the width thereof. Second, all parks, squares and all other grounds reserved for public uses, with the boundaries and dimensions thereof. Third, all lots and blocks, with their boundaries, designating such lots and blocks by numbers and giving all the dimensions of every lot and block so designated; also showing the angles of intersection of all boundary lines of such lots and blocks, whenever such angle of intersection is not a right angle; also the location of all stone or iron monuments set to establish street lines; also the exterior boundaries of the piece of land so platted, giving such boundaries by true courses and distances; also the exact location of all section corners, or legal subdivision corners of sections within the limits of said plat; and the adjoining block corners of all surveyed and adjoining additions. In case no such section or subdivision corners are within the limits of the plat, it shall show a connection line to some corner or initial point of the government surveys, if there be any such within one mile of such townsite. All distances marked on said plat shall be in feet and decimals of a foot. An accurate survey of such town or village site or addition shall be made by a competent surveyor, who shall mark all the corners of the lots and blocks so laid out and shown on the plat, by substantial stakes or monuments. He shall set stone or iron monuments at the points of intersection of the center lines of all streets where practicable. If not practicable to set such monuments at the points of intersection of said streets, they shall be set as near such point as possible, and their location shall be shown by marking on said plat the distances to the block corners adjacent thereto. The top of such monuments to be placed one foot below the surface of the ground, and the monuments shall be at least six inches by six inches, by one foot in depth. If a stone is used it shall have a cross cut in the top at the point of intersection of the street lines, or a hole may be drilled in the stone to mark such point. Iron monuments shall be at least two inches in diameter (which may be either solid iron or gas pipe) by two and one-half feet in length. The dimensions of such monuments to be marked on the plat. Such monuments shall establish permanently the lines of all streets. The surveyor shall also make and subscribe on said plat a certificate that he has made such survey and plat according to the provisions of this act, stating the date of such survey. And he shall make oath thereto before some officer authorized to administer oaths.

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Section two thousand and thirty-two—The proprietors of the land so platted, or their attorneys, duly authorized, shall make on such plat, a certificate to be known as the certificate of dedication, which shall be substantially in the form following, viz: We ....., do hereby certify that we have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat and certificate of survey hereunto annexed, the following described tract of land, to wit: (Here describe land included in plat) to be known and designated (here give full name of town, village or addition) and the lands included in all streets, avenues and alleys, and parks or public squares shown on said plat, are hereby granted and donated to the use of the public forever. Dated this ...., day of ...., A. D. ..... This certificate of dedication shall be signed by all the proprietors of the land included in the plat, and shall be acknowledged by them in the same manner as required by law to entitle deeds to be recorded: *Provided*, That all persons holding mortgages thereon shall, in addition to signing said certificate of dedication, execute a release of such mortgage or mortgages on such portion of the land as may be specified in said certificate of dedication, and such release shall be filed for record in the office of the County Recorder within thirty days from date of execution of the same.

Section two thousand and thirty-three—All such plats of lands in or adjoining any incorporated city or town, shall be examined and approved by the council or board in which the municipal authority of such corporation is invested, and a copy of such plat shall be filed with the clerk of such corporation. A certificate of such approval signed by the city or town clerk, and also the certificate of the city engineer of said city or town, if there be one, that the plat conforms to adjoining additions or parts of the city or town already platted, as near as the configuration of the ground will admit, shall be written on such plat before the same shall be filed in the recorder's office of such county. The plats of additions to unincorporated cities or towns shall be referred to the county commissioners of the county in which such additions are situated, who shall examine them and see that they conform to the parts of the city or town already platted, and who shall then, if they find the plats correct, attach their approval thereto.

Section two thousand and thirty-four—All plats of cities, towns or villages, or additions thereto, shall be made on mounted drawing paper and filed and recorded in the office of the recorder of the county in which the lands are situated. Before filing such plat or plats the board of county commissioners shall examine the same and see that all the requirements of this act in regard thereto have been complied with. The recorder shall provide, at the expense of the county, a well bound book of mounted drawing paper, and of convenient size for public use, to be designated "Platt Book No. ....," in which he shall make a true copy of every plat filed by

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him under this act, and of all certificates thereon (except that the scale and size of the plat may be changed to fit the book) and shall certify to the correctness of such copy, which book shall be a public record, and he shall safely keep the original plat for inspection only, to test the accuracy and genuineness of such copy. For filing and recording such plat, the recorder shall receive as fees, the sum of twenty-five cents for each lot or subdivision shown thereon to the number of one hundred, and fifteen cents for each lot shown thereon in excess of one hundred: *Provided*, That for recording any such plat showing less than forty lots or subdivisions, he shall receive the sum of ten dollars, and that the fee for recording any plat shall not exceed one hundred dollars.

Section two thousand and thirty-seven—The recorder of each county in this territory is hereby authorized and required, within one year from the date of the passage of this act, to provide suitable plat books of mounted drawing paper, and to cause to be copied in such books, all plats of ci ies, towns and additions thereto, and all suddivision plats of lands in his county with the certificates thereon or attached to said plats, and to certify to the same as provided in this act for plats hereafter to be filed, and shall receive the same fees as provided in this act for recording such plats, which fee shall be paid out of the county treasury, and all original plats in his office shall be safely kept by the recorder for inspection only.

Section two thousand and thirty-eight—Such plat must be recorded before any lots or blocks are sold or transferred by deed or contract or leased, and the proprietor or proprietors of any city, town or village, site or addition, or any part thereof, shall forfeit or pay for each lot so sold, transferred or leased, a penalty of not less than ten dollars nor more than one hundred dollars. Such penalty may be recovered in a suit brought in the name of the people of the territory of Montana against such person or persons so offending, and such penalty when recovered, shall be paid into the county treasury of the county wherein said premises are situated, for the benefit of the common school fund. Any person or persons who shall willfully or knowingly destroy any stake, stone or monument, placed by any surveyor in this territory, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than one hundred dollars for each and every stake, stone or monument so destroyed, which fine shall be paid into the county treasury in the county in which the offense was committed for the benefit of the common school fund.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

Approved, March 14, 1889.

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# SPECIAL LAWS.

## BOUNDARY LINES.

AN ACT to permanently fix and determine certain boundary lines and corners between Deer Lodge, Missoula, Silver Bow and Beaverhead counties, and to provide for the appointment of commissioners to determine the same.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That the county commissioners of the counties of Deer Lodge, Missoula, Silver Bow and Beaverhead, at their regular meeting in their respective counties in June, A. D. 1889, be authorized, and it is hereby made their duty, to appoint one commissioner each for their respective counties, whose duty it shall be to commence at a point known as the southeast corner of township No. 4, north of range No. 10, west of the principal base and meridian for Montana territory, and plainly mark out, define and establish the dividing line between Deer Lodge and Silver Bow counties, from said point of commencement to its intersection with the middle branch of Stoney creek, at which intersection to plainly mark out, define and establish the corner between Deer Lodge and Silver Bow counties, from thence to plainly mark out, define and establish the dividing line between Missoula and Silver Bow counties, up the middle branch of Stoney creek to the summit of the Rocky Mountains, and on said summit of the Rocky Mountains to plainly mark out, define and establish the corner on said summit of the Rocky Mountains at which the counties of Missoula and Beaverhead converge.

SEC. 2. That said commissioners appointed under the provisions of section 1 of this act shall each take an oath before entering upon the discharge of their duties, before some officer duly authorized to administer oaths to faithfully and impartially discharge their duties as such commissioners, which oath shall be subscribed and filed with the clerk of their respective counties.

SEC. 3. That the said commissioners shall meet at Anaconda, Deer Lodge county and Territory of Montana, on the fifteenth day of July, A. D. eighteen hundred and eighty-nine or within twenty days thereafter, and immediately proceed to mark out, define and establish said dividing lines and said corners; and the dividing lines and the corners thus marked out, defined and established shall be

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and the same are hereby declared to be the dividing lines and the corners between the said counties of Deer Lodge, Missoula, Silver Bow and Beaverhead.

SEC. 4. That after the marking out, defining and establishment of the dividing lines and the corners hereinbefore mentioned to the establishment of the corner on the summit of the Rocky Mountains as aforesaid, the duties of the commissioners of Deer Lodge and Missoula counties shall cease, and they shall cause to be filed with the County Clerk of their respective counties a description of the said dividing lines and the corners up to and including the marking out, defining and establishment of the corner on the summit of the Rocky Mountains; and it shall be the duty of the commissioners of Silver Bow and Beaverhead counties to proceed to mark out, define and establish the dividing line between Silver Bow and Beaverhead counties from the corner hereinbefore mentioned on the summit of the Rocky Mountains to the nearest waters flowing into the Big Hole river, and from thence down said water to the said Big Hole river, and they shall cause to be filed with the County Clerk of their respective counties, a description of the boundary lines and the corners between the said Deer Lodge, Missoula, Silver Bow and Beaverhead counties.

SEC. 5. That the said commissioners shall be and they are hereby authorized and empowered to employ a competent surveyor with the necessary assistants, who shall be paid pro rata by the respective counties interested, by warrants drawn on the contingent fund thereof.

SEC. 6. That the said commissioners duly appointed under the provisions of section one of this act, shall each receive eight dollars per day for each day actually employed under the provisions of this act.

SEC. 7. That the said commissioners shall be paid by warrants drawn on the contingent fund of their respective counties.

SEC. 8. That all expenses incurred under the provisions of this act shall be ascertained by the commissioners appointed under the provisions of section one of this act, and by them certified to and filed in the office of the County Clerk of their respective counties.

Approved, February 8, 1889.

## FERGUS COUNTY.

AN ACT providing for the extension of the northern boundary of Fergus county.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. That the northern boundary lines of Fergus county be extended to the Missouri river as follows: Commencing where the northern line intersects with the Musselshell river, thence down the center of said river to the Missouri river, thence up the center of the Missouri river to the present mouth of Arrow creek, thence up said Arrow creek to the present line of Fergus county.

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SEC. 2. In consideration of the change in the boundary lines of Fergus county as provided in section one of this act, it shall be the duty of the board of county commissioners of Fergus county, and they are hereby authorized, empowered and directed to issue, or caused to be issued, a warrant or warrants to be drawn at their regular June, 1889, session, by the county treasurer of said county of Fergus, payable to the order of the county treasurer of the county of Choteau, in the sum total of two thousand five hundred dollars upon the contingent funds of said county of Fergus, and the said commissioners of Fergus county after the said warrant or warrants shall have been drawn as aforesaid shall deliver or cause to be delivered, the said warrant or warrants to the commissioners of said county of Choteau, and such delivery shall be made as soon as is practicable after said warrant or warrants have been drawn.

SEC. 3. It shall be the duty of the board of county commissioners of Fergus county to preserve full and true records of their proceedings had under this act, and it shall also be the duty of the board of commissioners of Choteau county to preserve full records of any proceedings they may have under the provisions of this act, and the county of Fergus shall be and is hereby made liable to the said county of Choteau for the payment of the said sum of two thousand five hundred dollars, required to be made at the time and in the manner hereinbefore provided for.

SEC. 4. The county of Fergus shall have full power and authority to contract for transcribing such part of the public records of Choteau county as they may deem useful and necessary to the county of Fergus and its inhabitants; and for this purpose shall have suitable access to the records of Choteau county. Said records when completed shall be carefully compared with the originals by the county clerk of Choteau, and if correct he shall certify to their correctness under his official seal, and thereafter the copies of said records so transcribed and certified to, shall be admitted and received in evidence in all courts of law in this territory, and shall be in all other respects entitled to like faith and credit as said original records; the county clerk of said Choteau county shall receive for his services in comparing and certifying the correctness of the copy of said records, five dollars per diem while actually engaged in said labor, which amount shall be paid by the county of Fergus on the completion thereof, by warrants on the general fund.

SEC. 5. The county boundaries of Fergus and Choteau are hereby altered to conform to the provisions of this act.

SEC. 6. This act shall take effect from and after April 1st, 1889.

Approved, March 14, 1889.

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## PUBLICATION OF CERTAIN LAWS.

AN ACT requiring the publication of certain laws.

*Be it enacted by the legislative assembly of the territory of Montana:*

SECTION 1. The Secretary of the Territory shall, and he is hereby directed to furnish to the printer having the contract for territorial printing, a certified copy of an act entitled "An act to provide for the registration of the names of electors and to prevent fraud at elections," approved March 8, 1889; and also of an act entitled "An act to provide for printing and distributing ballots at the public expense and to regulate voting at territorial and other elections, approved March 13, 1889; and the Secretary of the Territory shall cause such a number of the same to be printed and distributed to the County Clerks of the several counties as will place a copy in the hands of all officers of election in each county. The cost of such certified copies and of such printed copies shall be borne by the territory, and there is hereby appropriated out of any funds in the territorial treasury not otherwise appropriated, a sufficient amount to pay therefor, and the Auditor of the territory is hereby directed to audit the bills for such printing and draw his warrant or warrants on the Territorial Treasurer therefor.

Approved, March 14, 1889.

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# RESOLUTIONS.

## CLERKS.

Council Joint Resolution.—To provide compensation for additional clerks of the Sixteenth Legislative Assembly.

*Whereas*, The persons hereinafter named in conformity with House Joint Resolution number one, have served the number of days, and are entitled to receive for such services the amounts set opposite their names, respectively, as compensation for the same; therefore,

*Resolved*, By the Council, the House concurring, that there be and is hereby appropriated out of the territorial treasury of the Territory of Montana, out of any moneys not otherwise appropriated, the sum of three thousand one hundred and nine dollars, as compensation for said services, and the Territorial Auditor is hereby authorized and directed to draw his warrants upon the territorial treasurer in favor of said persons respectively, for the several amounts due them for said services as follows:

| Name of Person. | Nature of service. | Days. | Amount. |
|---|---|---|---|
| R. L. Davis | Asst. Clerk of Council, | 53 | $265.00 |
| A. P. Brown | " " " | 56 | 280.00 |
| J. L. Jensen | " " " | 53 | 265.00 |
| E. S. Walker | " " " | 53 | 265.00 |
| Miss Fannie Vandervoot | " " " | 49 | 245.00 |
| Eugene French | Asst. Clerk of House, | 59 | 295.00 |
| F. H. Crowell | " " " | 59 | 295.00 |
| J. F. Kelly | " " " | 59 | 295.00 |
| J. E. Kennedy | " " " | 59 | 295.00 |
| Miss M. K. Child | " " " | 45 | 225.00 |
| Thomas Amos | Asst. Janitor, Council, | 48 | 192.00 |
| John Ogelsby | " " House, | 48 | 192.00 |
| | | | $3,009.00 |

Before issuing said warrants the Auditor shall deduct any and all sums heretofore paid to any of said persons on account of said House Joint Resolution, number one.

Approved, March 14th, 1889.

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CLERKS.

House Joint Resolution—Providing for extra clerks for Council and House, and to provide compensation therefor.

*Be it resolved by the Council the House concurring:*

That the President of the Council and Speaker of the House of Representatives be and are hereby authorized each to appoint five (5) additional clerks for their respective houses. The said clerks to assist the regular clerks and committees and perform such other duties as may be required of them.

The compensation of said clerks shall be five (5) dollars per day each, and the Auditor of the territory is hereby authorized to draw warrants in their favor upon presentation of pay-rolls duly certified to by the President of the Council, the Speaker of the House, respectively, and the chief clerk of the house in which said clerks are employed.

Approved, January 18, 1889.

EXAMINATION OF TERRITORIAL ACCOUNTS.

To provide compensation for Frank R. Schaffer and John V. Jerome, accountants.

*Be it resolved by the Council and House of Representatives of the Legislative Assembly of Montana:*

That there be, and the same is hereby appropriated from the territorial treasury out of any moneys not otherwise appropriated for compensation for services as expert accountants employed by the committee appointed to examine the books of the Territorial Auditor and Treasurer, under the authority of the Council Joint Resolution to Frank R. Schaffer and John V. Jerome, two hundred and fifty dollars: That the Territorial Auditor is hereby authorized to draw his warrant on the Territorial Treasurer in favor of said persons for the amount hereinbefore stated.

Approved, March 9th, 1889.

GOVERNOR'S MESSAGE.

House Joint Resolution—Providing for the printing and distributing of five hundred copies of the Governor's message.

*Be it resolved by the Legislative Assembly of the territory of Montana, the Council concurring:*

That the sum of one hundred (100) dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any moneys in the territorial treasury not otherwise appropriated, for the purpose of printing five hundred (500) copies of the Governor's message in pamphlet form for public distribution.

Approved, January 25, 1889.

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HISTORICAL SOCIETY.

Council Joint Resolution making an appropriation for the Historical Society of Montana.

*Be it resolved by the Council, the House of Representatives concurring:*

That there be and is hereby appropriated annually to the Historical Society of Montana, to be drawn by the treasurer thereof, the sum of six hundred dollars, to be used for the payment of room rent, for the library, for fuel, lights, furniture, for the binding of books, newspapers and magazines, postage and stationery, and services of librarian; and the Territorial Auditor is hereby authorized to draw his warrant in favor of such treasurer upon the Territorial Treasurer for the said sum of six hundred dollars.

HISTORICAL SOCIETY.

Council joint resolution to transfer the custody of the banners presented by the delegation of the Legislature of Dakota, on the occasion of their recent visit to Helena, to the Historical Society of Montana for safe keeping.

*Be it resolved by the Council, the House concurring:*

That the banners presented by the delegation of the Legislature of Dakota to this Legislative Assembly, on the occasion of their recent visit to this body, be placed by the Sergeant-at-Arms of each house in the custody of the Historical Society of Montana, to be there kept and preserved, subject to the order of any future Legislature of Montana; this to be done on the day of the adjournment of this Legislative Assembly.

Approved, March 8, 1889.

NORTHERN PACIFIC RAILROAD—AUTHORIZING THE PRINTING OF ACT CONCERNING.

*Be it resolved by the House of Representatives, the Council concurring:*

That in the next publication of thel aws of Montana, in as much as the same is of general interest to the people of Montana, an act entitled "an act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound by the northern route" approved July second, eighteen hundred and sixty-four, and the amendments thereto, be published among the laws affecting the territory of Montana in the prefix to the Statutes of this session.

Approved, March 14th, 1889.

PRINTING AND STATIONERY.

Providing for the payment of printing, newspapers, stationery, stamps, etc., not provided for by the general government.

*Be it resolved by the Council, the House concurring:*

That the sum of one thousand (1,000) dollars, or so much thereof as may be necessary, be and the same is hereby appropriated out of any money in the territorial treasury not otherwise appro-

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priated, to defray the expenses of such printing for the present session as may not be provided for by the general government including letter heads, envelopes, bills, resolutions, memorials and stationery presented or required in either house of the present legislative assembly, also including postage stamps necessary for the use of the members and chief clerks of both houses of the Legislature, not exceeding in amount the sum of five (5) dollars to any one member, and including a sufficient number of copies of daily newspapers published within this territory, not exceeding forty (40) of each, each day for the use of both houses: *Provided*, That no more than four hundred (400) dollars of the sum hereby appropriated shall be expended for such newspapers during the session; and the Territorial Secretary acting under the direction and subject to the control of the printing committees of the respective houses, is hereby authorized to cause such printing to be properly done, and such stationery and such postage stamps to be furnished to the members and chief clerks not exceeding the amount herein named therefor; and also under the direction of said respective printing committees to cause such newspapers as said printing committees may designate to be furnished and delivered in the respective houses. And his certificate or certificates for any of the articles herein named accompanied by the proper vouchers approved by the chairman of said printing committees shall be sufficient authority for the Territorial Auditor to draw his warrant or warrants on the Territorial Treasurer therefor.

Approved, January 22, 1889.

PUBLICATION OF LAWS.

A joint resolution relating to the printing of laws pursuant to section sixteen hundred and thirty-one of the Fifth Division Compiled Statute of Montana.

*Be it resolved by the Council, the House of Representatives concurring:*

That the committees on judiciary of the two houses be and are hereby authorized and directed to act as a joint committee for the purpose of indicating and reporting to the Governor, President of the Council and Speaker of the House, such laws enacted at the present session of the legislature as is in the opinion of such joint committee should be printed pursuant to the provisions of section sixteen hundred and thirty-one, Fifth Division, Compiled Statutes of Montana.

Such joint committee to make their report on or before the fifteenth day of March, eighteen hundred and eighty-nine.

Approved, March 14th, 1889.

PUBLIC INSTITUTIONS.

To defray the expenses of the joint committee of the legislature appointed to visit the penitentiary and insane asylum.

*Be it resolved by the Legislative Assembly of the territory of Montana:*

That there is hereby appropriated from the territorial treasury, out of any money not otherwise appropriated, the sum of twenty

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cents per mile for one hundred and sixety miles traveled by said committee to the penitentiary and territorial insane asylum and return, in favor of the following named persons, George M. Hatch, W. A. Conrad. Will Kennedy, S. G. Murry, E. E. Congdon, H. D. Pickman, C. P. Blakeley, J. R. Comfort. The said named persons served as joint members of special committees duly authorized by a joint resolution pass by both the Council and House of Representatives of the sixteenth legislative assembly of the territory of Montana, two hundred and fifty-six dollars is the amount of expenses necessarily incurred by the committee to visit the penitentiary and insane asylum.

Approved, March 8, 1889.

SCHOOL TEXT BOOK COMMISSION.

House Joint Resolution.—For the relief of A. C. Logan, J. H. Meyers and R. H. Howey, members of the school text book commission.

*Be it resolved by the Legislative Assembly of the Territory of Montana:*

That the sum of twenty-five dollars be paid to A. C. Logan, that the sum of thirty dollars be paid to J. H. Meyers, and the sum of fifteen dollars be paid to R. H. Howey, for services as members of the school text book commission, out of any moneys in the territorial treasury not otherwise appropriated.

And the Territorial Auditor is hereby authorized and directed to draw his warrants in favor of said A. C. Logan, J. H. Meyers and R. H. Howey upon the territorial treasury for said amounts.

Approved, February 14th, 1889.

STENOGRAPHERS.

*Be it resolved by the House of Representatives, the Council concurring:*

That M. K. Child be and is hereby awarded as compensation for clerical services as stenographer and type-writer for the House of Representatives the sum of twenty dollars for four days' services in addition to the same already allowed; and the Auditor of the territory is hereby directed to draw his warrant for said sum of twenty dollars in favor of said M. K. Child.

And also that the sum of twenty dollars be paid to Miss Fannie Vandervoort for extra services.

Approved, March 14, 1889.

TELEGRAMS.

For the payment of telegrams.

*Be it resolved by the Legislative Assembly of the Territory of Montana:*

That there be appropriated out of any money in the territorial treasury not otherwise appropriated, the sum of thirty-six and fifteen-one-hundredths ($36.15) dollars, to be paid to the Western Union Telegraph Company for services rendered in telegraphing contents of house joint resolution number eight to the Hon. J. K.

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Toole, John G. Carlisle and J. J. Ingalls; and the Territorial Auditor is hereby authorized and directed to draw a warrant on the Territorial Treasurer for the said sum of thirty-six and fifteen-one-hundredths dollars.

Approved, March 6, 1889.

WATCHMEN AND JANITORS.

House Joint Resolution.—Providing for assistant watchman and janitor for the House and Council.

*Be it resolved by the Legislative Assembly of the Territory of Montana:*

That the President of the Council and the Speaker of the House do apppoint one assistant watchman and janitor for the Council and one for the House, whose duties are to assist the watchman of the House, and watchman of the Council and to keep in proper condition and order the various committee rooms, for the use of committees of House and Council.

That the compensation of said officers shall be four dollars per day, and the Territorial Auditor is hereby authorized, and directed to draw warrants in their favor upon presentation of pay-roll duly certified to, by the President of the Council and Speaker of the House and chief clerks of the respective houses.

Approved, January 23, 1889.

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# MEMORIALS.

## FORT ELLIS RESERVATION.

Council Joint Memorial—Asking that the abandoned Fort Ellis Military Reservation be donated to the territory of Montana for the benefit of a school of mines, agriculture and the mechanics arts.

*To the Honorable the Senate of the United States and House of Representatives of the United States in Congress Assembled:*

*Whereas*, The people of the territory point with an honest pride to the superior grade and high character of our common school system, and acknowledge their many obligations to the general government for the endowments of school lands therefore, yet, considering that the time is at hand when our educational facilities in the form of industrial schools are not sufficient to meet the demands of our school population, and that those school lands donated for such a purpose are not available at present.

*And whereas*, The Governor of the territory in his message to the present Legislature recommended to them, and urged upon them, that they memorialize Congress to at once donate to the territory the abandoned Fort Ellis Military Reservation, and all buildings thereon belonging to said post for the benefit of a school of mines, agriculture and merchanics arts.

*And whereas*, The buildings thereon, although of a temporary nature, might with some comparatively inexpensive alterations, be made to accommodate a corps of professors and several hundred students and become of untold benefit to the youth of this territory in affording to them opportunities and benefits of a higher education.

Your memoralists, the Council and House of Representatives, composing the legislative assembly of the territory of Montana, respectfully pray that you, the Congress of the United States, donate and grant to the territory of Montana, the said abandoned Fort Ellis military reservation for the uses and purposes as above set forth.

And our delegate in Congress for the territory of Montana is hereby requested to prepare and introduce the necessary bills in Congress, looking to the donation of such lands and the buildings thereon as prayed in this memorial; and also to take such other steps within his power as will prevent other disposition of such lands until such bills can be acted upon by Congress.



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## MINERAL LAND.

Council joint memorial relating to the sale of mineral lands to aliens.

*To the Honorable the House of Representatives of the United States in Congress assembled:*

The Legislative Assembly of the Terrtiory of Montana most respectfully memorialize the Honorable the House of Representatives of the Congress of the United States. That the mining of minerals being the chief industry of our territory, and notwithstanding the fact that last year our mineral product approximated forty millions of dollars, we consider the industry practically in its infancy, and such being the facts it will be readily seen that we offer an almost unlimited field for the profitable investment of capital, and to that end we most respectfully urge favorable action by your honorable body upon Senate bill number 1176, and thus open the field to the free and untrammeled introduction of foreign capital, for the purpose of further developing our mining industry. We fully believe such action would inure vastly to the general prosperity of our country; and for which your memorialists will ever pray.

## MINERAL LANDS.

Council Joint Memorial.—Relating to mineral lands in odd sections in Montana.

*To the Honorable President of the Senate and Speaker of the House of Representatives of the United States:*

*Whereas*, The Northern Pacific Railroad Company, under the provisions of its grant claims title or the right to procure title to large area of the mineral lands of Montana, embracing many of the best gold, silver, copper and lead producing districts, and,

*Whereas*, Congress in its grant to said railrord company has excluded all mineral lands except coal and iron lands, but has failed to define what are mineral lands within the meaning of said grant, and,

*Whereas*, Numerous controversies have arisen respecting the definition of what constitutes mineral land, and,

*Whereas*, If patents should be issued to the said railroad company for those mineral lands already certified to them for patent by the United States land officers, a great number of discovered and recorded mines now in process of development would be taken from the present claimants and would not only work a great hardship and loss of property to individuals, but in addition would be disastrous to the mining interests of Montana.

*Now therefor*, We, your petioners, the Legislative Assembly of Montana, do most earnestly pray your honorable bodies to enact such necessary legislation as will prevent said railroad company from acquiring title to our mineral domain under the provisions of their grant, or in any other manner except as prescribed under the laws of the United States relative to mineral lands.

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*And further*, That Congress will enact such a law as will forever preserve to Montana all mineral lands (except coal and iron) for exploration, location, and developement under the laws of the United States.

## STATEHOOD.

House joint memorial relating to Statehood.

*To the Honorable the Senate and House of Representatives of the United States in Congress assembled:*

Your memorialists the Legislative Assembly of the Territory of Montana respectfully represent:

That the people of Montana rejoice in the belief that our statehood and the statehood of our sister territories is so near at hand, and that our ambition will be fully realized under the terms of the bill for admission, as contended for in conference by the Senate of the United States,

That we express our grateful acknowledgments and obligations to the majority of the House of Representatives for their gallant fight in having the unjust provisions of the so called omnibus bill eliminated from that measure.

That we do most earnestly pray that the bill as insisted upon by the Senate, and which we believe is now pending before the House of Representatives, receive the immediate and favorable action of your honorable bodies, to the end that our rights, so long and so unjustly withheld, may finally be granted us.

The Speaker of the House of Representatives and the President of the Council be and are hereby authorized to telegraph this memorial to the President of the Senate and Speaker of the House of Representatives and to our delegate in Congress at Washington.

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